Supreme Court, U.S.
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No.

In The
Supreme Court of the United States

United States of America, and;
State of California, and;
ex rel. Miro J. Satalich,
Petitioner(s),

v.

City of Los Angeles
Respondent.

On Petition For Writ Of Certiorari to the United States Court of Appeals for 9th Circuit

PETITION FOR WRIT OF CERTIORARI

Miro J. Satalich, Pro se
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QUESTIONS PRESENTED

(1) In reference to Federal Rules of Appellate Procedure, Rule 21(2)(C), did the 9th Circuit Court of Appeals Panel fail to fulfill their obligations, by not hearing the below described questions in Appeals Docket #: 04-56758 prior to case being closed and/or even after the case was dismissed by the District Court?

(2) As respects Title 31 U.S.C. §§ 3729 et seq. discovery in qui tam action. Did the District Court Judge error, by making an impossible ruling requiring the Plaintiff to prove fraudulent funds paid by the City, while in the same breath denying and barring discovery to public records/accounts of the City of Los Angeles containing grant Funds paid to them by the Federal government and State of California?

(3) In accordance with Title 28 U.S.C. §§ 144, 455, and; upon motion to recuse and/or disqualification, and; after filing documents asserting impartiality and evidentiary issues, is a U.S. District Judge, required to step down, and the case be assigned to another Judge, on a one time basis only, as required by statute? And, if the Judge declines to recuse, is it immediately appealable to a higher Court?

(4) Is there a difference between: (1) requesting recusal without citing Title 28 U.S.C. §§ 144, 455, from that of: (2) requesting same recusal in the form of a notarized affidavit, inasmuch as first request was identified as a motion by the Judge, while the second request definitely was in the form of a motion and notarized affidavits, citing Title 28 U.S.C. §§ 144, 455, then both requests being denied, by another Judge,

not assigned to the case? Also, there is a definitive conflict of opinions between the Fifth and DC Appellate Courts regarding Title 28 U.S.C. §§ 144, 455. See U.S. Supreme Court Liljeberg v. Health Services Acquisition Corp. 486 U.S. 847 (1988) 486 U.S. 847 and US Court of Appeals For The DC Circuit Argued February 26 and 27, 2001 Decided June 28, 2001 No. 00-5212 United States of America, Appellee v. Microsoft Corporation, Appellant Consolidated with 00-5213 Appeals from the United States District Court for the District of Columbia (No. 98cv01232) (No. 98cv01233).

(5) In all appearances, are United States District Court, Central District of California General Orders #194-E and #244 being used by District Judges as a subterfuge to bypass Title 28 U.S.C. §§ 144, and 455? Since not statutes, are these General Orders in fact legal?

(6) Were the Plaintiff's due process rights abridged, when filed pleadings, and Court Orders were either intentionally withheld by the Court, and not entered into the Pacer CM-ECF, and/or supposedly not having reached the Court, numerous times over?

(7) Was the Court Docket Record system flawed, as the Court claims Relator's filed pleadings never reached the Court, yet provided the Court with four methods of "Proof of Service." Also, for example, the Court issued a large opinion dated July 27, 2001, dismissing all contractors for One thing or another, yet the Court never filed the document into the record. Upon examination by this Court, is the Court Record of CV-00-08882-GAF-(PLAx) in error?

(8) Since the City of Los Angeles has stonewalled and intentionally withheld subpoenaed public records, and upon motion, was not compelled by the Court to produce, the Plaintiff also requested the 9th Circuit, as an alternative, issue a "Writ of Mandamus" awarding the Plaintiffs, "Default Judgement." Since the 9th Circuit panel declined to review or give any explanation whatsoever thereof, the Plaintiff is asking the same question of this Court?

(9) In conclusion, the Appellant's prays that the High Court accept to hear all arguments, rule, and **remand back** to the 9th Circuit Court of Appeals, that Judge Gary A. Feess, be disqualified from CV-00-08882GAF(PLAx), and any other litigation with the Appellant and the CLA. That discovery be reopened for audit by a Certified Public Accountant for all public records containing federal grant funding, namely, but not inclusive of aforementioned "Environmental Trust Account." File a Supplemental Complaint based on newly acquired evidence.

Or, as an alternative. Since the City of Los Angeles has been in perpetual default, award the Plaintiffs " Default Judgment."

PARTIES

United States of America, and; State of California, and;
ex rel. Miro J. Satalich

Petitioners,

v. CV-00-08882-GAF-(PLAx)

City of los Angeles

Respondent.

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Petitioner Miro J. Satalich respectfully prays that this Court grant a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered on January 19, 2005.

OPINIONS BELOW

The January 19, 2005 opinion of the court of appeals is set out at pp. 1a, 2a, of the appendix A, and B to the Petition. The main part of the United States District Court opinions are being appealed to the 9th Circuit Court of Appeals **#04-57163.**

JURISDICTION

The decision of the court of appeals was entered on January 19, 2005. The jurisdiction of the Court is invoked pursuant to Title 28 U.S.C. § 1254. Also, Petitioner filed with this Court post marked received on March 2, 2005. However was rejected because of improper format, and given 60 days to re file as of March 3, 2005.

STATUTES AND REGULATIONS INVOLVED

In accord with Title 28 U.S.C. §§ 1253, and 2101(e), this action, being a Title 31 U.S.C. § 3729 et seq., lawsuit, that being a Congressional Act, involving alleged fraud of government grant funding, thereby, falling squarely under U.S. Supreme Court Rule 11, and;

See *U.S. v. Microsoft*, *Liljeberg v. Health Services* , *Liteky v. U.S.* and *U.S., State of California, ex rel. Miro J. Satalich v. City of Los Angeles* . There appears to be a definitive difference of opinions between the 5th, DC, 9th Circuit Appellate's, and the U.S. Supreme Court of judge disqualification pertaining to 28 U.S.C. §§ 144, and 455.

In the DC Appellate ruling, U.S. District Judge Thomas Penfield Jackson was retroactively disqualified, yet the 9th Circuit Court of Appeals ruled District Judge Gary A. Feess disqualification "**not appealable**." Therefore, petitioner is begging for clarification.

STATEMENT OF THE CASE

The City of Los Angeles Hyperion Wastewater Treatment Plant (HTP), was a run down, neglected, undermanned, environmental disaster. In 1977, the City of Los Angeles (CLA) and State of California were sued by the United States of America, Environmental Protection Agency (EPA) and various private environmental groups, namely, Santa Monica based "Heal the Bay", due to discharging untreated sewage and wastewater into Santa Monica Bay and for lack of maintaining the large facility. The results of the suit were a Consent Decree Order, signed by **District Judge Harry Pregerson** on June 19, 1980, which led to an Amended Consent Decree (**ACD**) date of February 19, 1987, again signed by **Appellate Judge Harry Pregerson** , who, although an **Appellate Justice**, was supposedly allowed to retained and overlook the case in it's entirety, until he closed it on August 7, 2000, and also according to the record, still was overseeing CLA Hyperion, CV-77-3047HP, CV-00-08882-GAF-(PlAx), and CV-04-9193-GAF(PLAx). The State of California plead itself into the Plaintiff's position.

The estimated cost of updating Hyperion was 2.5 billion dollars. Monies came in the form of the U.S. Super Funds and grants from the United States of America, Environmental Protection Agency (80%), and the State of California (10%), and with The CLA contributing about ten percent (10%). Construction started on the Hyperion energy recovery system (HERS) about 1982, and plant updating concluded with case

closure by **Appellate Judge Harry Pregerson** on August 7, 2000.

US GOVERNMENT, STATE OF CALIFORNIA CITY OF LOS ANGELES- FUNDING

Eighty percent of funding was provided by grants from the United States Department of Justice, Department of Interior, Environmental Protection Agency, Superfund. Ten Percent funding provided by the State of California. Ten percent matching funding by the City of Los Angeles, through public sewer tax. First Training contract to Metcalf & Eddy Services, $13,000,000.00. Second Training contract to Metcalf & Eddy Services, $3,500,000.00. MCS contract to oversee Metcalf & Eddy, $130,000.00. per year. MCS Training Group contract for C-109 project, $2,800,000.00. Approximate contracted Training costs, $20,000,000.00.

All monies were placed in a trust fund under the control of elected city official Rick Tuttle, City Controller, then disbursed by his office on approval of all training contractors by the Bureau of Sanitation via Hyperion HRDD managers.

The Appellant alleges that: He was employed by the City of Los Angeles from March 30, 1987, to May 10, 1995, at the City of Los Angeles, Hyperion Wastewater Treatment Plant, 12000 Vista Del Mar, Playa Del Rey, California 90293. On or about October 1990, the Appellant transferred to Hyperion's Human Resources Development Division (HRDD), Training Section. Further, the Appellant alleges that after reporting training fraud and waste to City government, pertaining to the Federal Court Ordered Amended Consent Decree (Case #77-3047-HP), which happened prior to and noticeably on October 28, 1991, that starting with a breach of confidentiality from a plant manager, the Appellant was

harassed, which continues to present date. Hyperion and HRDD management knowingly and intentionally: Harassed, threatened, intentionally falsified the Appellant's work records to take steps to fire him and discriminated against him in direct violation of: (a) State Labor and Penal Codes, (b) City Ordinance No. 168708, SEC 49.5.4.(A)(B)(C)(D), and (d) 31 U.S.C. § 3730(h), and, (e) Model Penal Code, § 224.4; 18 U.S.C.A. §§ 1506, 2071, 2073, and (f) Appellant's First, Fifth, and Fourteenth Amendments to the United States Constitution. On May 10, 1995, the Appellant became seriously ill and was forced to take medical leave because of allegedly unlawful harassment towards him, which was intentionally caused him by CLA Hyperion Plant, and HRDD managers.

The Appellant believes, that because of the language of Title 31 U.S.C. § 3730(e)(3) "**Certain actions barred**," and being overseen by Appellate Judge Harry Pregerson, he could not file an action because of being in conflict with the ACD, see footnote[1]. The Appellant believes this to mean, barring anyone from filing a Title 31 U.S.C. 3729 et seq., action, while the United States was still involved in CV-77-3047-HP, and the ACD. However, On March 19, 1999, the Appellant filed a Title 31 U.S.C. § 3730(h) Motion and Complaint of intervention into CV-77-3047HP, but was ignored by Judge Pregerson Court, and the City did not respond. The Appellant made numerous inquires with the Court Clerk and directly to Judge Harry Pregerson, but, to no avail or response. The Appellant contacted the U.S. Department of Justice, whereas, they were investigating the Appellant's complaints, and were

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[1] Title 31 U.S.C. § 3730(e)(3) "Certain actions barred" — "In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suite or an administrative civil money penalty proceeding in which the Government is already a party."

writing reports to the CV-77-3047HP Court. On August 7, 2000, and after consulting with the USDOJ and checking the case status with the Court Clerk, the Appellant filed a full blown qui tam intervention into CV-77-3047HP. However, after being filed ... seven days later, Judge Pregerson closed CV-77-3047HP and backdated to the same day as filed by Appellant, August 7, 2000. On August 22, 2000, the Appellant filed a new action, case number CV-00-08882GAF(PLAx). The Appellant was later contacted by Judge Pregerson's Court Clerk, to the effect, that the first 31 U.S.C. § 3730(h) intervention was still pending, but apparently the documentation was lost and to re file original documents directly to him. The Appellant complied, and waited for over a year with no response. Because of the City and Court not responding to the motion, the Appellant filed for Default, and Default Judgement, only to be rejected and told the case was closed on as per CV-77-3047HP, August 7, 2000.

REASON FOR GRANTING THE WRIT

There is a conflict among Appellate Courts regarding judge disqualifications. In this case, denying access to public records containing federal grant funds.

The Appellant has gone through well over four years of litigation with the major qui tam argument being whether a municipality was a person. On 6/09/2003, Judge Feess dismissed all causes. Due to ***Cook County v. United States ex rel. Chandler, 123 S. Ct. 1239 (2003) U.S. Supreme Court No. 01-1572***, CV-00-08882GAF was reinstated. Through stipulation, the City agreed to discovery. However, failed to produce, and when finally did, withheld, with Court approval, withheld critical public records containing Federal and State grant monies in the "Environmental Trust Fund" records.

Judge Feess denied the Appellant's access to public records containing Federal and State grant funds ___, hence, because of obvious evidentiary issues, Appellant requested Judge Feess disqualify himself, with the intention to reopening discovery with another judge. As indicated in the record, because of notable extreme prejudice and partial rulings from Judge Feess, the Appellant sought on two occasions for Judge Feess's disqualification. The Appellant believes that United States District Court, CDCA General Rules 244(4.0, 4.1, 4.2), and 194-E, are being used, in conjunction with another peer Judge, as subterfuge to undermine Title 28 U.S.C. §§ 144, 455 that could have far reaching affects in both attorney, and pro se criminal and civil cases in the greater Los Angeles area.

QUESTIONS PRESENTED TO THE COURT

I.

Refer to Appendix A, and B, pages 1a and 2a, Mandate from 9th Circuit Court of Appeals **Docket #04-56758**. On September 20, 2004 the Appellant filed with the 9th Circuit, also with a short brief preliminary page, stating cause for appeal. See Appendix F citing Extraordinary Writs as outlined in Federal Rules of Appellate Procedures Rule 21. In accordance with FRAP Rules 3, 4, and 5, the Appellant believes he had every right to be heard at this stage of the case. Clearly, FRAP 3 states: "appeal as of right," and as states within FRAP Rule 4(a)(1)(A) "In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4©, the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after the judgment or order appealed from is entered. The Appellant assumes the words judgement or order appealed from is entered," to mean two separate and distinct applications of law. Judgement meaning finality, whereas, an Order meaning a command or direction by the Court. Further assuming an appeal may be taken from either individually, or from both, collectively. By Judge Feess denying access to

public records, the Appellant believes he was placed into an impossible and untenable position of proving a case without discoverable access to City Controller's **Environmental Trust Account**," that containing Federal and State grant funds. Feess's dismissal ofCV-00-08882GAF based on (see Appendix - J page 33a) a declaration, from a non elected person, and not from the elected City Controller. An untrue statement from an unaccountable person.

Judge Feess's preempted intention to dismiss was clear, and is enough to fulfill the requirement of FRAP Rule 4(a)(2 for the Appellant to file for appeal. Although Court Docket Entries are called "Minute Orders", they are still "Orders" that are signed at the bottom "AS SO ORDERED" supposedly appealable, before final "judgement." Clearly, FRAP Rule 4(a)(2) States:

> "Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry."

The Appellant believes FRAP Rule 4(a)(2) to mean exactly as worded, that being able to file an appeal prior to final judgement. Moreover, the District Court dismissed CV-00-08882GAF on 11/18/2004, while the appeal was being reviewed and rejected by a three Judge 9th Circuit Panel citing as, not within their jurisdiction. On 11/30/2004, the Appellant filed a Reconsideration with the same 9th Circuit Panel citing case closure, however, was again denied as per 04-56758 Docket entry dated 12/29/2004, and Mandate issued date of

1/19/05. See footnote[2]. Summary of time line of 9th Circuit Court of Appeals events: The Appellant has filed three times with the 9th Circuit Court of Appeals, and, as yet, to be heard. Therefore, given the facts, the **question** before this Court: Did the 9th Circuit fulfill, or skirt their Appellate obligations in this case?

II.

The District Court barred Appellant's access to City of Los Angeles, City Controller's Office public records containing Federal and State grant funds, from discovery. As a result of *Cook County v. United States ex rel. Chandler, 123 S. Ct. 1239 (2003) U.S. Supreme Court No. 01-1572*, CV-00-08882GAF, was reinstated on 08/11/2004, however, the City raised the issue of "statute of limitations." See excerpts of

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[2] On 10/07/04, an appeal was filed with 9th Circuit Court of Appeals Docket #04-56758. On 11/18/04, U.S. Dist. Judge G. Feess dismissed CV-00-08882GAF. On 11/23/04, the Appellate dismissed, claiming lack of jurisdiction. On 11/30/04, due to case closure, Appellant filed for clarification and reconsideration. On 12/29/04, the Appellate Panel responded, however, did not clarify, nor reconsider. On 01/19/05, Appellate Panel issued a mandate barring any further motions, and/or reconsideration.

CV-00-08882GAF docket entries #123[3], and #124[4]. Please make note of the purpose of the stipulated discovery, that being for "statute of limitations," and nothing else being mentioned.

By March 1, 2004 the City of Los Angeles failed to produce documents. The Appellant filed motions for the City and third parties to compel, however, was denied by the Court, yet Judge Feess maintained his calendared schedule.

The Appellant responded and believed proved "statute of limitations," however, the defendant, after over four years of stalling, raised yet another erroneous issue of funds not being federal grant monies paid to contractors in CV-77-3047HP, that to fulfill the ACD.

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[3] 10/06/2003 **123** MINUTES: scheduling conference held . The court orders limited discovery be conducted as to the subject of materials relating to the statute of limitations question. This discovery is to take place within the next 90 days. If a motion is to be filed regarding the statute of limitations, it is to be filed not later than February 9, 2004, opposition to be filed February 23, 2004, with a reply due March 1, 2004. This matter will be heard on Monday, March 8, 2004, at 9:30 a.m. by Judge Gary A. Feess CR: Lisa Gonzalez (bp) (Entered: 10/07/2003)

[4] 12/30/2003 **124** STIPULATION and ORDER that the City shall serve its responses to Satalich's requests for production of documents and things, set one, and special interrogatories, set one, no later than March 1, 2004. The City shall file any motion relating to the statute of limitations issue no later than April 12, 2004. If a motion is filed, Satalich shall file any opposition no later than April 26, 2004. The City shall file any reply no later than May 3, 2004. If a motion is filed, it shall be heard on Monday, May 10, 2004, at 9:30 a.m. by Judge Gary A. Feess (bp) (Entered: 12/31/2003)

According to the record, and dates, the City was purposely late in discovery and in default. When they finally delivered documents, they intentionally withheld records, most pertinently from the "**Environmental Trust Account**," as mentioned by the CV-77-3047HP Court for the City Controller's Office to accept and disburse Federal and State of California grant monies. Because the Court placed an impossible burden of proving the defendant's new issue, the Appellant filed a motion to reopen discovery, specifically aimed at the City Controller's Office to have, at the expense of the Appellant, the "**Environmental Trust Account**" audited by a **Certified Public Accountant** . The Court denied all motions and objections, and/or enforcement of subpoenas, yet insisted the Appellant prove without access to City Controller's records, that Hyperion ACD contractors were paid with federal grant funds. Note to the Court: Although the City provided very limited documents of their own choosing, the Appellant did find enough additional discovered documentation to merit filing a "**Supplemental Complaint**," which was also denied by Judge Feess. Therefore, **three questions** before this Court: Since the Defendant raised the issue, then did not produce subpoenaed records: Did the District Court error and/or **overreach it's authority by barring** the Appellant's access to City Controller's **public records**, controlling Federal and State grant monies, to prove a Title 31 U.S.C. § 3729 et seq. action, and did the Court also error in **not accepting** the Appellant's **Supplemental Complaint**? **Is the City in default**?

III.

See Appendixes: C, D, E, F, G, H , I, J, K, L, M.

In accordance with Title 28 U.S.C. §§ 144, 455, and; upon motion to recuse and/or disqualification, and; after filing documents asserting impartiality and evidentiary issues, is a U.S. District Judge required to step down, and the case be

assigned to another Judge, on a one time basis only, as stated within the two statutes? And, if a Judge declines to recuse, is it appealable to a higher Court? In separate paradox rulings, District Judge Gary A. Feess was asked twice to recuse himself and twice used United States District Court - CDCA General Orders #194-E and #244 (see Appendix - N, page 42a, and O, page 44a), and by a peer Judge's rulings, remained.

Then, Judge Feess raised and reversed the same issue himself in CV-04-9193GAF, citing:

> "28 U.S.C. § 144 and Section 455 requires a judge to recuse himself in any case in which his impartiality might seem reasonably be questioned."

Question: who is, and where is this reasonable person to be found, and who's responsibility is it to find this person? Judge Feess found his reasonable person in another peer Judge that ruled for him. I'm a reasonable person, and have found numerous other reasonable persons, that contend that Judge Feess, in the language of Title 28 U.S.C. §§ 144, 455, should have simply followed those statutes and stepped down. He should not have further showed impartiality by taking the motion to a fellow Judge down the hallway for whom we all know, would rule(d) in his favor. Upon careful examination of CV-00-08882GAF Docket Entries and Court rulings, any reasonable person will find, that Judge Feess did not accept one sentence, or one paragraph, or one motion, or any evidence submitted by the Appellant. and; not one motion was heard, but in fact all rejected for one reason or another. The record also shows, that in 191 documents there was not one oral argument or hearing held. In fact, Judge Feess's Clerk would call a few days prior to noticed hearings and cancel, or Judge Feess would reject them in Minute Orders. All of his rulings

were done behind closed doors, "**in chambers**".

In 1991, Supreme Court Justice Clarence Thomas introduced me to the term ***Kafkaesque***, which surely applies in this case.

Questions before the Court: Is the Appellant, in accordance with Title 28 U.S.C. §§ 144, 455, considered a reasonable person, and given the presented evidence, should Judge Feess have recuse himself on 8/10/2001 without affidavits, and/or again on 9/13/2004 with affidavits ... on his own, stepped down, rather than use a peer Judge, to hear the motion? The Appellant believes, that when a fellow Judge down the hall ruled against recusal, it was clearly a partial ruling, and an abuse of the Appellant's due process rights.

IV.

Questions regarding the difference between:
(1) Informally requesting recusal without citing Title 28 U.S.C. §§ 144, 455, and/or from that of:
(2) Formally requesting recusal in the form of notarized affidavits, inasmuch as first informal request was identified as a motion by Judge Gary A. Feess, while the second request definitely was formally in the form of a motion, accompanied with notarized affidavits, citing Title 28 U.S.C. §§ 144, 455, then, both requests being denied by the same peer Judge, not assigned to the case. Since Judge Feess did not recuse either time, then, would the two requests be counted at all as noted in 28 U.S.C. § 144, (in part) "*a party may file only one such affidavit in any case*"? Did USDC-CDCA Judge Virginia Phillips, for whom Judge Feess called upon to rule in his disqualification, rule that the first request, without affidavits, count as a "a party may file only one such affidavit in any case"? The Appellant contends, that in both, Judge Feess did not recuse or follow Title 28 U.S.C. §§ 144, 455, but instead

remained on the case, and case was not assigned to another Judge, therefore, the legal issue of counting a recusal in both instances should be moot.

V.

The petitioner is requesting the High Court to examine United States District Court - CDCA General Orders #244 and #194-E (see appendix N and O) In all appearances, elements within these two General Orders are believed used by District Judges as a subterfuge to bypass Title 28 U.S.C. §§ 144, and 455, and due to the fact, there is nothing mentioned in either Title 28 U.S.C. §§ 144, 455 of a motion for recusal to be heard by another single peer Judge, in the same Court House, let alone in any other Court house ___. Further, it would be unconscionable if District Judges have been using General Orders #194-E and #244 to confound and intimidate criminal case Pro se litigants, as well as, civil case Pro se litigants, as myself.

Question: Should recusal elements within USDC - CDCA General Orders #194-E and #244 be legal in accord to Title 28 U.S.C. §§ 144, 455? Also, there is a definitive conflict of opinions as regard Title 28 U.S.C. §§ 144, 455 between the Fifth and DC Appellate Courts. See: *U.S. Supreme Court Liljeberg v. Health Services Acquisition Corp. 486 U.S. 847 (1988) 486 U.S. 847* and US Court of Appeals For The DC Circuit Argued February 26 and 27, 2001 Decided June 28, 2001 No. 00-5212 *United States of America, Appellee v. Microsoft Corporation*, Appellant Consolidated with 00-5213 Appeals from the United States District Court for the District of Columbia (No. 98 cv01232) (No. 98 cv01233). See Appendix D (in part): "***denial of motion to disqualify judge not appealable***." On appeal, if the DC Circuit (retroactively) disqualified District Judge Penfield Jackson, then, surely the same should apply to the 9th Circuit disqualifying Judge Gary

Feess, including all rulings retroactively back to **July 10, 2001?** ***Also, please visit Pacer CV-00-08882GAF docket #60, and make note of where, and when it was acted upon!*** Clearly, out of order, and a month and many rulings later.

VI.

According to the record: On or about 5/24/2001 U.S. District Judge Gary A. Feess, stayed CV-00-08882GAF and spoke with 9th Circuit Appellate Justice Harry Pregerson, pertaining to transferring this case over to him. The Appellant filed an objection, because Judge Pregerson ignored a Title 31 U.S.C. § 3730(h) intervention on March 19, 1999, into CV-77-3047HP. Then again during a U.S. Department of Justice investigation, a second Title 31 U.S.C. § 3729-33 intervention was filed on August 7, 2000, that also denied by Pregerson. Prior to filing, the Appellant checked with the Court Clerk to see if CV-77-3047 was still declared open, and was. After filing, Judge Harry Pregerson back-dated and closed CV-77-3047HP, to the same day Appellant filed, August 7, 2000. That's why CV-00-08882GAF was filed On August 22, 2000. Two Questions: Did Judge Gary Feess, in accordance with USDC-CDCA General Order #244, and Title 28 U.S.C. § 47, overreach his authority and jurisdiction by contacting, with an attempt to transfer CV-00-08882GAF to Appellate Judge Harry Pregerson? And, without being first heard, was it legally appropriate for Judge Pregerson to back date and close CV-77-3047HP during a U.S. Department of Justice investigation?

VII.

The Appellant alleges and claims that the CV-00-08882GAF docket entry records are being skewed and inaccurate. A finder of fact examining filed and entry dates would realize that Judge Feess has intentionally screened and withheld the Appellant's filed documents and also that he issued

a large opinionated order that was not filed into the record. A reconsideration was filed on 3/29/2004, with Judge Feess claiming not having received this filing, which had four methods of Proof of Service. This filing was for "***reconsideration***" to enforce subpoenas, and the Appellant's motions for the defendant and third parties to compel for failing to meet the March 1, 2004 discovery date. Thereafter, Judge Feess apparently claimed to have discovered the "reconsideration." at a much later date, answering on 8/26/04, well past the fact and many, many rulings later . Any legal questions, motions to compel, discovery production of documents were answered by Judge Feess in one word, **DENIED**. **Question:** Was the Docket intentionally skewed, and in his rulings, was Judge Feess partial, arbitrary, and discriminatory towards the Appellant?

The Appellant believes the language in Title 28 U.S.C. § § 144, 455 are as congress intended, very clear. Moreover, since the terms "**extrajudicial** and **intrajudicial**" are not mentioned in either statutes, it's usage should be abandoned. As per statutes, the only diction that should be considered:

> § 455 (in part) "(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned," and;
>
> § 144 (in part) "the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding."

VIII.

Final **Question**: See *Coleman v. City of Frierson (1985)*. Since the City of Los Angeles has stonewalled, and has intentionally withheld subpoenaed public records, and, upon motion, was not compelled by the Court to produce or reopen discovery, has been in **perpetual default**, and since the same questions were (see Appendix F) requested from the 9th Circuit Court of Appeals, and **denied**, claiming non jurisdiction, then, as an alternative, after review, can this Court in accord with Federal Rules of Civil Procedures, Rule 55, and Federal Rules of Evidence **remand back to the 9th Circuit to issue a writ of mandamus/opinion awarding Default Judgment to the Petitioners?**

CONCLUSION AND PRAYER

IX.

In conclusion, the Appellant's prays that the High Court accept to hear all arguments, and rule:

To **remand** to the 9th Circuit Court of Appeals, that Judge Gary A. Feess, be disqualified retroactively from CV-00-08882GAF(PLAx) back to **July 10, 2001.**, and any other related litigation with the Appellant and the CLA. and;

If Judge Feess is not disqualified, then, remand CV-00-08882GAF retroactively back to **July 10, 2001.** and;

That discovery be reopened for audit by a Certified Public Accountant for all public records containing federal grant funding, namely, but not inclusive of aforementioned "Environmental Trust Account" for CV-77-3047HP. and;

Not to amend, but to file a "**Supplemental Complaint**." and;

Rewrite USDC - CDCA General Orders #194-E and #244 to comply 100% with Title 28 U.S.C. §§ 144, 455.

As an alternative. Since the City of Los Angeles has been in perpetual default, remand back to the 9 th Circuit to award the Plaintiffs "Default Judgment."

Respectfully submitted by:

Miro J. Satalich

Date: March 31, 2005

Miro J. Satalich, in Pro se
P.O. Box 93314
Phoenix, Arizona 85070 - 93314
(480) 283-0355

APPENDIX A

SEAL/FILED
JAN 21 2005
CATHY CATHERSON CLERK

US COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA; et al., No. 04-56758
Plaintiffs, D.C. No. CV -00-08882-GAF
Central District of California,
Los Angeles

and

MIRO J. SATALICH, JUDGMENT
Plaintiff - Appellant,

v.

CITY OF LOS ANGELES,
Defendant - Appellee.

Appeal from the United States District Court for the Central District of California, Los Angeles.

On consideration whereof, it is now here ordered and adjudged by this Court, the the appeal in nthis cause be, and hereby is DISMISSED for lack of jurisdiction.

Filed and entered Tuesday, November 23, 2004

SEAL/A TRUE COPY 1-14-05
ATTEST
CATHY CATHERSON CLERK
RUBEN TALAVERA
Deputy Clerk

DOCKETED ON CM
JAN 24 2005
BY ___031 191

APPENDIX B

MANDATE

US Court of Appeals for the Ninth Circuit
Case Summary
Court of Appeals Docket #: **04-56758** Filed: 10/7/04
Nsuit: 3360 Other personal injury (Fed)

Satalich, et al v. City of L.A.
Appeal from: Central District of California, Los Angeles

Lower court information:
District: 0973-2 : CV-00-08882-GAF
presiding judge: Gary A. Feess, District Judge

10/7 /04

DOCKETED CAUSE AND ENTERED APPEARANCE OF APLT IN PRO PER & COUNSEL FOR APLE. CADS SENT (Y/N): N. setting schedule as follows: appellant's designation of RT is due 10/4/04; appellee's designation of RT is due 10/12/04; appellant shall order transcript by 10/22/04; court reporter shall file transcript in DC by 11/22/04; certificate of record shall be filed by 11/29/04 appellant's opening brief is due 1/10/05; appellees' brief is due 2/7/05; appellants' reply brief is due 2/22/05; [04-56758] (pg)

1.0/15/04

Filed Appellee City of L.A. 's motion to dismiss the case (for lack of jurisdiction); served on 10/14/04 (to MOATT) [04 -5 6758] (ru) LO/21/04 Filed Appellant Mira J.

Satalich's opposition to appellee's City of L.A. motion to dismiss the case; served on 10/20/04
(to MOATT) [04-56758] (ru)

11/23/04

Order filed: (MOATT) Aple's mtn to dismiss this appeal for lack of jurisdiction is GRANTED (Procedurally Terminated After Other Judicial Action; Jurisdictional Defects. Edward LEAVY, M. M. McKEOWN, Marsha S. BERZON) [04-56758] (mhf) Ll/30/04
Filed Appellant Miro J. Satalich's motion for clarification, & reconsideration mtn for mtn panel rehearing [04-56758] served on 11/29/04 [MOATT] [04-56758] (mhf)

12/29/04

Filed order (Edward LEAVY, M. M. McKEOWN, Marsha S. BERZON):

Appellant's motion for reconsideration of this court's November 23, 2004 order dismissing this appeal for lack of jurisdiction is **denied**. All interlocutory orders may be challenged only in the context of an appeal from a final judgment. See 28 U.S.C. Section 1291. No motions for reconsideration, rehearing, modification, clarification, stay of the mandate or any other submissions shall be filed or entertained in this closed docket. [04-56758] (ru)

1/19/05 MANDATE ISSUED [04-56758] (ru)

APPENDIX C

SEAL/FILED
DEC 29 2004
CATHY CATHERSON CLERK

US COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA; et al., No. 04-56758
Plaintiffs, D.C. No. CV -00-08882-GAF
Central District of California,
Los Angeles

and
MIRO J. SATALICH, ORDER
Plaintiff - Appellant,
v.
CITY OF LOS ANGELES,
Defendant - Appellee.

Before: LEAVY, McKEOWN and BERZON, Circuit Judges

Appellant's motion for reconsideration of this court's November 23,2004 order dismissing this appeal for lack of jurisdiction is denied. All interlocutory orders may be challenged only in the context of an appeal from a final judgment. See 28 V.S.C. § 1291.

No motions for reconsideration, rehearing, modification, clarification, stay of the mandate or any other submissions shall be filed or entertained in this closed docket.

S :\PROSE\panelmemos\reconmemos\Recon 2004 12.04\04-56758.wpd

APPENDIX D

SEAL/FILED
NOV 23 2004
CATHY CATHERSON CLERK

US COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA; et al., No. 04-56758
Plaintiffs, D.C. No. CV -00-08882-GAF
Central District of California,
Los Angeles

and

MIRO J. SATALICH, ORDER
Plaintiff - Appellant,

v.

CITY OF LOS ANGELES,
Defendant - Appellee.

Before: LEAVY, McKEOWN and BERZON, Circuit Judges
Appellee's motion to dismiss this appeal for lack of jurisdiction is granted. See 28 D.S.C. § 1291;United States v. Washington, 573 F.2d 1121 (9th Cir. 1978)
(denial of motion to disqualify judge not appealable)

S:\PROSE\panelords\2004\11.04\November15
04-56758.wpd

APPENDIX E

Excerpts from Docket #165, page 3

"Finally, the Court also wishes to address Relator's repeated objection that the Court's order limiting discovery to the statute of limitations issue does not encompass documents related to proof that payments for the allegedly defective training were made out of federal government grant monies. (8/20/04 Objection at 5; 7/22/04 Objection at 3). Relator's objection reveals a fundamental misunderstanding of what the "statute of limitations" issue in this case represents. Relator's previous attempt at an opposition focused, among other things, on his contention that the proper statute of limitations period for this case is ten years, rather than the six years argued by Defendant. Clearly, the number of years is a valid issue that must be determined, however, that is a legal issue. There is no need for discovery on this point."

"The reason the Court reopened discovery was for the purpose of determining if Relator had any qui tam claims that could possibly survive any applicable statute of limitations. As Relator recognized in his own papers, the statute of limitations period either begins to run on the date a false claim is submitted or on the date payment is actually made. (4/23/04 Opp. at 5). Defendant has submitted evidence to the Court that none of the contracting work that Relator alleges was insufficient was paid. for out of federal funds. Thus, unless Relator can present admissible evidence sufficient to create a triable issue of fact on this point, Relator cannot survive summary judgment regardless of whether the limitations period is six years or ten."

APPENDIX F

September 20, 2004, Appeal Supplemental Page

(#1) The Relator believes District Court Judge V. Phillips reviewing Docket # 166 erred. Although the Relator previously requested Judge Feess to disqualify himself, there were no U. S. statutes mentioned, nor "Affidavits," nor "Certificate of Counsel of Record" filed, and he remained on the case. Besides alleged prejudicial issues against Judge Gary A. Feess, the main issue now as stated within Title 18 U.S.C. § 455 (in part) is: "personal knowledge of disputed evidentiary facts concerning the proceeding."

(#2) The Relator requested a Writ of Mandamus to disqualify District Judge Feess, and;

(#3) The Relator alleges with evidence of USDC Judge Feess contacting an Appellate Judge to transfer case to same Appellate Judge, who had a direct contact with the Defendants, and;

(#4) The Relator requests the Appellate for a Writ of Mandamus directing the USDC-CDCA to enforce FRCP and FRE in CV-00-08882GAF(PLAx) regarding discovery and access to City of Los Angeles public records from the City Controller's Office, with both Federal and State of California grant funds, to be audited, at the expense of the Relator, by a Certified Public Accountant, and;

(#5) As an alternative, because of the length of time the City of Los Angeles has stonewalled and intentionally withheld subpoenaed public records from the City Controllers Office,

from which Federal and State grant funds were supplied, the Relator requested the Appellate for Writ of Mandamus awarding the United States of America, State of California, together with Relator, Default Judgement, and;

(#6) On three different occasions, the Relator filed documents that were withheld, and not entered into the Pacer CM-ECF, supposedly having reached the Court, and;

(#7) The Relator is questioning the legality of USDC - CDCA General Order #244, and General Order 124 used within Title 18 U.S.C. §§ 144, 455, being used twice, by both District Judges Gary A. Feess, and Virginia A. Phillips."

Sign/_____ September 20, 2004

Miro J. Satalich
P.O. Box 93314
Phoenix, Arizona 85070-93314
Tel: 480 283-0355

APPENDIX G

Seal/FILED
CLERK US DISTRICT COURT
SEP 16, 2004
CDCA - EASTERN DIVISION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case No CV-OO-8882 GAF (PLAx)

UNITED STATES OF AMERICA
ex reL MIRO J SATALICH
Plaintiff,

v.

THE CITY OF LOS ANGELES
Defendants.

ORDER DENYING PLAINTIFF MIRO J. SATALICH SECOND MOTION TO DISQUALIFY

On September 13, 2004 Plaintiff Mira J Satalich filed a motion to disqualify The Honorable Gary A Feess pursuant to 28 U S C §§144 and 455 This IS the second such motion fIled by Plaintiff, he first filed a Motion to Recuse Judge Feess on August 10, 2001 Insofar as Plaintiff attempts to bnng this Motion under 28 use § 144, It IS barred by the plain language In that section which limits each party to one attempt to disqualify the assigned judge Plalnttff also cites Title 28 use § 455 as a basIs for his motion Section 455(a) provides

DOCKET #168

DOCKETED ON CM
SEP 16 2004

> Any Justice, Judge, or magistrate of the United States shall disqualify himself In any proceeding In which his Impartiality might reasonably be questioned.

The question before this Court IS whether a reasonable person, knowing all the facts, would conclude the trial Judge's Impartiality is subject to question United States v Wilkerson, 208 F 3d 794, 797 (9th Cir 2001) See also U S v Hernandez, 109 F 3d 1450, 1453 (9th Clr 1997), U S v Studley, 783 F 2d 934, 939 (9th Clr 1986)

Here, all of the facts and circumstances would not cause a reasonable person to doubt Judge Feess's Impartiality Plaintiff complains of various rulings issued by Judge Feess, but a Judge's prior adverse ruling does not provide a basis for recusal Id Plaintiff also complains of contact between a Circuit Judge and one of the parties to this case, but does so In .such conclusory and unsupported terms that It is Impossible to ascertain any ground for recusal. Affidavits In support of recusal motions must state material facts with particularity Conclusory assertions of bias are insufficient

Plaintiff has not demonstrated that Judge Feess has shown bias or prejudice for or against any party Accordingly, his Motion to disqualify is denied

Dated September 16, 2004

Signed/Virginia A Phillips
Virginia A Phillips
United States District Judge

APPENDIX H

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

U.S.A. **Seal/filed: Sep 14, 2004**

ex rel. Miro J. Satalich

PLAINTIFF(S),

CASE NUMBER
CV 00-8882 GAF (AIJx)

v.

The City of Los Angeles, et al

DEFENDANT(S).

REFERRAL OF MOTION TO DISQUALIFY
JUDGE/MAGISTRATE JUDGE

A Motion to Disqualify Judge Gary A. Feess was filed on 9/13/04. Pursuant to General Order 224 and General Order 194, this motion is referred to Judge Virginia A. Phillips for determination. Also in accordance with Sections 4.0 and 9.0 of General Order 224, all proceedings will be stayed until the determination of this motion.

CLERK, U. S. DISTRICT COURT

Dated 9/14/04

By Robert R. Nadres
Deputy Clerk

cc: Judge Assigned to Case
Judge Assigned to Hear Motion
Counsel of Record as follows:

Docket #167

CV-54 (08/97)

REFERRAL OF MOTION TO DISQUALIFY
JUDGE/MAGISTRATE JUDGE
ENTERED ON ICMS 9/14/04

APPENDIX I

Miro J. Satalich
P.O. Box 93314
Phoenix, Arizona 85070
(480) 283-0355 Pro se

SEAL/FILED
CLERK U.S. DISTRICT COURT
SEP 13 2004
CDCA
BY DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE UNITED STATES OF AMERICA, and;
THE STATE OF CALIFORNIA, and;
ex rel. MIRO J. SATALICH
Plaintiffs,

vs. CASE No.: CV-00-08882-GAF(PLAx)

THE CITY OF LOS ANGELES
Defendant.

NOTICE TO THE COURT
PLAINTIFF'S NOTICE FOR
JUDGE GARY A. FEESS TO
DISQUALIFY HIMSELF FROM
THIS CASE Under the following:
Title 28 U.S.C. §§ 144, and 455(a)(b)(1)
With Notarized Affidavit and
Certificate of Counsel of Record.
Date filed: August 22, 2000
Time: None
Place: Royball Building Courtroom: 740
The Honorable Gary Allen Feess

DOCKET #166

The Plaintiff notices, moves and request that all proceedings in this matter be vacated from the Court's calendar as per within Order Docket Entry #165. and this case be STAYED until this dispute is resolved. If oral arguments are to be heard. the Court's own discretion.

ORIGINAL

POINTS OF AUTHORITY
FEDERAL STATUTES FOR CAUSE OF JUDGE DISQUALIFICATION
AND CASE REASSIGNMENT

(1) Title 28 U.S.C. § 144 - Bias or prejudice of judge

"Whenever a party to any proceeding in a district coutt makes and files a 'timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding. II "The affidavit shall state the facts and the reasons for/he belief that bias -or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith"

Title 28 U.S.C. § 455. - Disqualification of justice, judge, or magistrate judge (in part).

> "(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned
> (b) He shall also disqualify himself in the following circumstances:
> (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding; "

Refer to Docket Entry #165. Of all of the rulings that have been issued by Judge Gary A Feess, in this case, this is the most partial, prejudicial, obfuscated, and distorted statements of fact to date, and therefore, he should disqualify himself from any further proceedings in this matter.

INTRODUCTION

(2) The Plaintiff is in receipt of Judge Gary A. Feess's Order dated August 30. 2004, Docket #165. Clearly, any reasonable person that has followed, or has read the record will find that you, Judge Feess, from the outset, has displayed contempt and has taken an adversarial role, instead of a neutral impartial judicial role towards the Plaintiff, clearly with the intent bf damaging this case. The Plaintiff did not use the dictionary term or word ulie" in any pleadings filed, or accused this Court of lying. However, after reading, studying, and analyzing Docket #165, and past rulings, you, Judge Feess, are not only prejudicial in this case, but are now attempting to distort the actual record to fact and dates of events, and, yes, Judge Feess,

you are now telling many. many untruths. The Plaintiff has not, nor will ever change his beliefs, that the City of Los Angeles is a **CRIMINAL ENTERPRISE**. Further, that any reasonable person/finder of fact examining the CV-00-08882GAF record, would determine that you, Judge Feess, are aiding and abetting that **CRIMINAL ENTERPRISE**.

(3) True, the Plaintiff is Pro se and admittedly inexperienced in legal matters, and mistake prone. However, the Courts and judicial system were never created to accommodate a labyrinth system controlled by just attorneys and a trap for the less skilled. You, Judge Feess, have displayed an outright contempt for this pro se litigant, and should be ashamed of yourself for being so blatantly divisive and partial. Your total disregard for Title 31 U.S.C. § 3729-33 a Congressional Act, Federal Rules of Civil Procedures, Federal Rules of Evidence, and especially the Code of Judicial Conduct has exposed your partiality and one sided rulings, that being to destroy this case in any way, shape or form. See "***U.S. v. Microsoft*** " and " ***Liljeberg v. Health Services Corp***." and "*Litky v. U.S.* " The question to you, Judge Feess, is: What person, or group affiliated with the City of Los Angeles are you covering up for?

RESTATEMENT OF FACTS

(4) Restatement of Notice filed with the Court on 07/09/2001, see Docket #60.

(a) "The Plaintiff has acquired newly discovered evidence that Judge Harty Pregerson most recently met and spoke with one or more of the Defendants named in the lawsuit outside of the Courtroom. The evidence clearly shows a biased connection and loyalty towards the Defendant, City of Los Angeles."

(b) "It is not clear whether you, Judge Feess, approached Judge Pregerson to have this case transferred, or whether Judge Pregerson made a direct request to you. Either way, it is clearly

a prejudicial act that has caused unwarranted judicial discord towards me, by yourself and/or Judge Harry Pregerson. "
(c) "I cannot begin to emphasize enough, that since the inter-action between yourself and Judge Harry Pregerson in No. 00-08882GAF, I now have cause to believe this case compromised, tainted, and prejudiced towards the Defense. "
(d) "To make such a case transfer, Judge Pregerson had to review the Complaint, pleadings and unsealed evidence. Then, while the case was stayed, Judge Pregerson had a month long opportunity to sift through all of the evidence. He then claims to have declined to accept the case, however, later met with Defendant(s) named in the Complaint Clearly bad judgment, to say nothing against judicial ethics on both your part and Judge Pregerson's."
(e) "To ask for a clarification on a Court's Order is not an unreasonable request, it should be a normal way of doing legal business. However, maybe because I'm Pro se, not with you."
(f) "It is no wonder the City of Los Angeles has comfort in knowing they can operate with impunity, that of not having to respond, or be accountable to the squandering of federal funds, and the pummeling of their employees, because, they are being protected by their own personal Federal Appellate Judge. That in itself, Judge Feess, is outrageous in any u.s. Court of Law, including this one. "
(g) "Pleadings filed into Case # CV 77-3047HP had nothing to do with your Court, then to be admonished for my trying to obtain due process in that case, is absolutely beyond justification, against FRCP, and frankly unfair. That part of this case should have been cleanly "over with." "Default" by any other name, is still "Default" Judge Pregerson did not follow Court procedures by not notifying me, so that "Default Judgment" could be appealed He, instead, backdated documents. Because of that "Default" a "Summary Judgment" was filed into Case # 00-08882GAF. However, you were quick

to reject "Summary Judgment" and for some not so strange and now very explainable protective reason, the City of Los Angeles was not required to respond to either filing."

JUDGE GARY A. FEESS'S PERSONAL BIAS AND PREJUDICE WITHIN DOCKET #165

(5) Refer to Ruling dated June 6,2001, Docket #44. Judge Feess started his prejudicial assault on the Plaintiff by first DENYING the United States Department of Justice to file an Amicus Brief in support of the City being a "person" under the False Claims Act. Next, this paragraph by Judge Feess from Docket #44, page 2, last paragraph:

> "Finally, the Court notes that Plaintiff has bombarded it with various pleadings since the inception of this lawsuit This is unacceptable. Plaintiff shall not file any additional pleadings, .except that contemplated in this Minute Order, until instructed to do so."

Judge Feess erroneously uses the term "Bombarded" with various pleadings." What Pleadings? And, " Plaintiff shall not file any additional pleadings, except that contemplated in this Minute Order, until instructed to do so. "Shall" means mandatory. The Plaintiff has spoken to numerous legal scholars, and has been told, that they have never, ever heard of anything so prejudicial and repressive coming from the bench...any bench...in America! The purpose of our Courts, are to hear all sides, and get to the truth. **Judge Feess. your statement does not serve justice, but obstructs justice, and you're acting as a surrogate for the defense**.

(A) In Judge Feess's Order Docket Entry #165 , he further prejudiced, and obfuscated the Plaintiff's "objections" that were

filed on **July 22, 2004**, Docket Entry # 154, and" IAugUst 20, 2004 and Docket Entry #163, by issuing an Order, in an out of order helter-skelter manner. Refer to Plaintiff's **OBJECTIONS** Dockets #154, and #163, and compare the response order of **Court's Order dated August 30, 2004 Docket # 165.** (8) Refer again to Docket #165. Other than Judge Feess's obfuscation, partiality of facts and events, the Plaintiff cites again another major problem all along as being: **"PROCEEDINGS: (In Chambers)"** . The record clearly shows, tha1all noticed motions, pleadings, court set schedules for oral arguments have been categorically changed, denied, and then have been ruled on in "Chambers" without any oral argument whatsoever. Judge Feess has disrespectfully treated this case as liken to a mail-in-traffic-ticke1 court. Never allowing to ask a question, orto raise a legal question , or be open to any legal discussion. Clearly, "Kafkaesque."

(C) Refer to Docket #165: **"A. Plaintiff's Objections to Docket Entry #157."** In part "Plaintiff objects to the Courts' briefing schedule on three principles: (1) plaintiff does not believe that the Court did not receive his motion for reconsideration when it was filed; (2) defendant is in "default for not ha ving to respond to it,. and (3) he doesn 't like the new schedule. " In response to (1): See Docket Entry #163. **There are more than three principles**, however:

(1) The Plaintiff provided the Court with un controverted proof of properly filing and service thereof of an Original and Duplicate, and to all concerned parties. Once filed with the Court Clerk, the Plaintiff does not have control of where, or how pleadings are directed within the Court's system. The Plaintiff furnished the Court with four methods of proof of service.

(2) Refer to: **FEDERAL RULES OF CIVIL PROCEDURE, IX.** Special Proceedings, Rule 74--Method of Appeal From

Magistrate Judge to District Judge Under Title 28, U.S.C. 636(c)(4) and Rule 73(d). There is absolutely nothing written within **FRCP rule 74** of having to file a "motion" for a Review or Reconsideration." The Plaintiff provided the court with **four methods of proof of service** directed to you, District Judge Gary A. Feess, for Magistrate Paul Abrams ruling :or "Reconsideration" filed on **August 20. 2004** Docket Entry # 163. Therefore, for you Judge Feess to state that "***The Court cannot consider what it never receives***" is not only erroneous, but an untruth. The Court Docket Entry Record and filed documents prove otherwise. Further, the Plaintiff believes that because of his Pro se status, the Court has taken unfair advantage of that fact to be partial in this ruling to deny "reconsideration" instead of the actual time line of actual events, and FRCP, and FRE. **DEFAULT BY ANY OTHER NAME IS STILL DEFAULT.**

(3) "he doesn't like the new schedule." The Plaintiff believes, that again, because of his Pro se status, the Court intentionally set biased, mean spirited and unrealistic response dates, compared to the Defendant. For example see Docket Entry #157 dated August 2, 2004 :

> "(2) Defendant's opposition to Plaintiff's reconsideration is due before Monday, August 16, 2004. Plaintiff may file a reply on or befofe Monday August 23,
> 2004. The hearing date in this matter is set for Wednesday, September 1, 2004 at 9:30 a. m."

Clearly not enough time to analysis, research and respond, and clearly partial and prejudicial to favor the defense.

(A) **Restatement, ¶ (H) of Docket Entry #154.** In part:

> "(H) Due to Cook County v. Chandler case establishing new controlling law, – Plaintiff filed a motion with the Court to reconsider and reinstate CV-00–08882GAF. On August 8, 20003, CV-00-08882GAF was reinstated [see Docket Record #119], however, the City of Los Angeles raised the issue of "statute of limitations." The Court set a time line for discovery. On the concluded date of discovery and production of documents, ***the City was a month* late**, and ***did not produce records*** as subpoenaed, as well as other parties, who were defendants, that were earlier dismissed by the Court and ***who did not comply*** with subpoenas for production of documents. The Plaintiff filed a motion ***to compel*** with the Court ***[see #127, 128, 129, 130]***. The Court denied the motions. However, the established time line remained The Appellant's ***objection*** is that the discovery time line set by the Court left no room to file motions to compel or to be heard, nor did the Court enforce Plaintiff's subpoenas, thereby, denying the Appellant's right to discovery with impunity to the defendants, and the City did not comply with subpoenas and allegedly withheld critically requested evidence. On March 29, 2004 [see Docket Record #132], the Plaintiff filed a " ***Judicial Notice***" with the Court to review and***Reconsider*** Magistrate Judge Paul L. Abrams discovery ruling [see Docket Record #130] of ***March 17, 2004*** denying Plaintiff's motion to compel. The CV-00-08882GAF Court

ignored the " ***Judicial Notice*** ," and "***Reconsideration*** ," clearly after setting unrealistic dates, then being prejudicial to favor the defense."

Restatement of Docket Entry #162. page 3. line #25.

"The Plaintiff further OBJECTS with the amount of time allocated to the Defendant to respond back to the Court, versus the allocated time afforded the Plaintiff. The Court gave the Defendant City of Los Angeles nearly two weeks to address why it hasn't produced, records from the **City Controller** and ***Environmental Trust Fund*** records. In turn, the City will serve the Court on time, however, will make sure to serve the Plaintiff days late, thereby leaving the plaintiff only a few days to respond Again, the Court is being unfair and biased in it's calendaring of replies and responses, clearly giving advantage again to the City."

This is Court was clearly aware of the City Controller as being the only Department that received and disbursed grant funds. The City Attorneys office defends all City departments. Therefore for this Court to side with the City attorney, and the City Controllers Office, and public records being off limits to discovery is a direct affront to the Federal False Claims Act, Federal Rules of Evidence, and to the judicial process. Outrageous. Judge Feess, you are not only setting bad case law, but are aiding and abetting in a cover up of the theft of federal funds.

STATUTE OF LIMITATIONS and EVIDENTIARY ISSUES

(6) The Defendant raised among other issues, "Statute of Limitations." The parties stipulated and agree to discovery. Using Judge Feess's theory, there would be a 90 day bogus narrowed "Statute of Limitations" discovery order issued. The defendant could be allowed to be a month late of the Court's due date with impunity. The Defendant would not be compelled to deliver subpoenaed documents with impunity. The Court would not ho nor it's own Order for discovery and subpoenas issued to the Defendant and to material witnesses. The Defendant would not have to deliver documents from the department that received and disbursed federal grant monies. The Plaintiff responded to the Issue of Statute of Limitations," see Docket Entry #139. The Defendant would raise another issue of contractors not being paid from federal funds, and the Court would knee jerk, set the Statute of Limitations issue aside, and then claim the Plaintiff has had opportunities from the Court to prove the contractors were being paid from federal funds. The Plaintiff files a motion with the Court to have the City Controllers office provide books, records, or documents of monies that were received and disbursed to be examined by a Certified Public Accountant. The Court denies access to those public records, while requiring the Plaintiff to produce proof of records proving federal funds were used to pay contractors. Ridiculous, partial, insulting and an irresponsible act done by federal judge that took an oath to uphold the laws of this country.

CONCLUSION

(7) The Plaintiff believes that besides Judge Feess being biased, extremely prejudicial, and verbally abusive towards the Plaintiff, the record proves he communicated with, and attempted to transfer this case to an Appellate Judge. Besides taking an adversarial partial position in this case, the Plaintiff believes that from the outset, Judge Feess has tainted this case, and the Plaintiff with the Ninth Circuit Court of Appeals. Since the facts in this case are now critical disputed discoverable evidentiary facts, the Plaintiff believes that Judge Feess violated Title 28 U.S.C.. § 144, Title 28 U.S.C. § 455(a)(b)(1), Judicial Canons, and American Bar Association Codes of i Conduct, therefore should disqualify himself, or should be disqualified from this case.

In accordance with Title 28 U.S.C. § 144, the Plaintiff has submitted a notarized **"Affidavit" EXHIBIT - 1**, and "**Certificate of Counsel of Record**" **EXHIBIT - 2** with this Notice to the Court, attached to this pleading. Further, the Plaintiff moves and request all proceedings in this matter be removed from the Court's calendar as per within Order Docket Entry # 165, and this case be STAYED until this dispute is resolved.

Submitted by:

Signed/_____, Date September 9, 2004
Miro J. Satalich

APPENDIX J

Link 133, 150
132, 163 PSend

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No. CV 00-08882-GAF (PLAx) Date: August 30. 2004
Title: United States ex rel. Satalich v. City of Los Angeles

The Honorable Gary Allen Feess. Judge

Marilynn Morris **Seal/Docketed on CM** None Present
Courtroom Deputy Sep 1 2004 Clerk Court Reporter
BY____ 005
Attorneys present for plaintiff-Attorneys present for defendant
None Present None Present

PROCEEDINGS: (In Chambers)

The Court recently set a briefing schedule in connection with Plaintiffs motion for, reconsideration of an order issued by the Magistrate Judge in March 2004. Plaintiff has filed a document objecting to Docket Number 157 (the briefing schedule) and 158 (denial of his belated motion to amend). This order responds to these objections, the initial motion for reconsideration of the magistrate's March order, and Plaintiffs pending motion to reopen discovery

A. PLAINTIFF'S OBJECTIONS TO DOCKET ENTRY 157

Plaintiff objects to the Court's briefing schedule on three principle grounds: (1) plaintiff does not believe that the Court did not receive his motion for reconsideration when it was filed;

(2) defendant is in "default for not having responded to it; and

(3) he doesn't like the new schedule. Plaintiffs complaints lack merit. A brief description of the background and the applicable local rules disposes of all of them.

On March 17, 2004, Magistrate Judge Abrams denied Plaintiffs motion to compel certain discovery. (Docket Entry 130). On March 29, 2004, the Court Clerk filed a document styled:

To: The U.S. District Court, The Honorable Gary A. Feess, Judge In-Accordance-with-FRCP-Rule-7-4(a).and;
Federal Rules of Evidence, Judicial Notice Rule 201 (a)(b)(1)(2(d) and;
Title 31 U.S.C. § 3733 Civil Invest. Demands
PLAINTIFF'S REQUEST FOR REVIEW AND RECONSIDERATION OF ORDER DATED: March 17.2004, FOR MOTION TO COMPEL TO:
City of Los Angeles, and; **Docket #165**
Kiewit Pacific, and;
MINUTES FORM 11 CIVIL - GEN -1
Initials of Courtroom Deputy Clerk___

Metcalf & Eddy Services.

(Docket Entry 132). Local Rule 7-4 requires that the first page of a motion contain the date and time of the motion hearing because the hearing date, in turn, triggers the automatic briefing schedule set forth in Local Rules 7-9 and 7-10. Because Plaintiffs filing was not properly noticed, the matter ~as not automatically placed on the Court's calendar. See Local Rule 6-1. Nor was the briefing schedule triggered.. Thus, defendant cannot be in default since no schedule was ever set.

Even though Local Rule 7-4 provides that the Court may decline to consider a filing that is not properly noticed, had the Court received the document or even a courtesy copy of the document, it would have set a proper briefing schedule and hearing date. However, Plaintiff's single duplicate copy was forwarded to the magistrate judge and it did not physically reach this Court. The Court cannot consider what it never receives.

Finally, the Court's briefing schedule provided Plaintiff the standard seven days to file a reply to Defendant's opposition. See Local Rule 7-10. Accordingly, Plaintiff's objection to and his request that the Court reevaluate and reconsider its order setting a briefing schedule in this matter is **DENIED**.

B. PLAINTIFF'S OBJECTIONS TO DOCKET ENTRY 158

Plaintiff also objects to and requests that the Court reevaluate and reconsider a second order issued on August 2, 2004 (Docket Entry 158) denying Plaintiff's belated motion to amend or supplement his complaint. Although Plaintiff should have filed this "request" as a separate motion with a timely hearing date, see Local Rule 6-1, the Court will ignore this defect and consider the motion.

Plaintiff objects to the Court's statement that his complaint contained a "myriad of allegations" as a "denigrating remark." The dictionary indicates that denigrate come from the Latin meaning to defame. A remark cannot be defamatory, however, if true. Considering that the 25-page complaint contains allegations of eavesdropping, entrapment, noncompliance with the amended consent decree, fraud, obstruction of justice, discrimination, harassment, exposure to electrical hazards, and witness tampering, the Court considers

the use of the term "myriad" to be accurate.

Plaintiff also argues that the Court lied when it said that he has been given multiple opportunities to submit evidence in support of his contention that certain contracts were paid out of federal funds. The history of Plaintiffs responses to Defendant's summary judgment motion belies Satalich's attack on the Court. Defendant filed its summary judgment motion on April 12, 2004. After receiving Plaintiffs opposition, which the Court found was insufficient and improperly focused, the Court provided Plaintiff detailed instructions on how to properly oppose the motion and what evidence would be required. (Docket Entry 137). The Court extended Plaintiff nearly a month to file a new opposition opposition However, instead of filing an opposition Plaintiff filed an improper appear to the Ninth Circuit (Docket Entry 138). Further, Plaintiff continually tried to file amended or supplemental complaints containing unrelated allegations, even though the Court had instructed him that such complaints would not be accepted. (Docket Entry 135, 140). After the deadline for filing an opposition came and went, the Court construed Plaintiffs silence as a motion to stay proceedings, which it granted [1] (Docket Entry 142, 147). After the stay was lifted, the Court again extended

> [1] The Court notes that because the mere filing of an appeal does not automatically stay proceedings, Plaintiffs failure to either move for a stay or file an opposition constituted grounds for granting Defendant's motion for summary judgment. See Local Rule 7-12.

Plaintiff ample time to file an opposition. (Docket Entry 148). Although Plaintiff did eventually file an opposition, he has yet to provide actual evidence that a false claim for payment was

submitted to the federal government. Thus, the Court stands by its statement that it "has given Plaintiff multiple opportunities to submit evidence."

For the foregoing reasons, to the extent that the "objection" to Docket No. 158 can be construed as a motion, it is **DENIED**.

Finally, the Court also wishes to address Plaintiffs repeated objection that the Court's order limiting discovery to the statute of limitations issue does not encompass documents related to proof that payments for the allegedly defective training were made out of federal government grant monies. (8/20/04 Objection at 5; 7/22/04 Objection at 3). Plaintiff's objection reveals a fundamental misunderstanding of what the "statute of limitations" issue in this case represents. Plaintiff's previous attempt at an opposition focused, among other things, on his contention that the proper statute of limitations period for this case is ten years, rather than the six years argued by Defendant. Clearly, the number of years is a valid issue that must be determined, however, that is a legal issue. There is no need for discovery on this point.

The reason the Court reopened discovery was for the purpose of determining if Plaintiff had any qui tam claims that could possibly survive any applicable statute of limitations. As Plaintiff recognized in his own papers, the statute of limitations period either begins to run on the date a false claim is submitted or on the date payment is actually made. (4/23/04 Opp. at 5). Defendant has submitted evidence to the Court that none of the contracting work that Plaintiff alleges was insufficient was paid or out of federal funds. Thus, unless Plaintiff can present admissible evidence sufficient to create a triable issue of fact on this point, Plaintiff cannot survive summary judgment

regardless of whether the limitations period is six years or ten.

C. PLAINTIFF'S REQUEST FOR RECONSIDERATION OF DOCKET ENTRY 158

Plaintiff seeks reconsideration of the Court's denial of his motion to file an amended or supplemental complaint in this matter. Plaintiff's position is that the Court failed to follow certain guidelines set in place by Congress for discovery under the False Claims Act ("FCA"), 31 U.S.C. § 3729 et seq. Plaintiff appears to argue that certain provisions of the FCA supplant the Federal Rules - of Civil Procedure. For support, Plaintiff cites to § 3733, which is titled "Civil Investigative Demands." By its explicit terms, this section only applies to civil investigative demands issued by the Attorney General prior to filing a civil action under § 3720 or other false claims law. See 31 U.S.C. § 3733(a)(1). The statute further states: "The Attorney General may not delegate the authority to issue civil investigative demands under this subsection." Id. -

This statute has no application to a motion brought by a private qui tam plaintiff, in an existing civil action, to amend or supplement his complaint pursuant to Rule 15. The Court clearly stated its reasons for denying Plaintiffs motion and declines to further address this issue. Accordingly, Plaintiffs motion for reconsideration is DENIED.

D. PLAINTIFF'S MOTION FOR RECONSIDERATION OF THE MAGISTRATE JUDGE'S MARCH 17.2004 ORDER

On March 17,2004, Magistrate Judge Abrams denied Plaintiffs three motions to compel :j discovery from non-party Kiewit Pacific Co., non-party Metcalf & Eddy, Inc., and

Defendant City of(Los Angeles. The motions were denied without prejudice on procedural grounds for failure to comply with Local Rule 37. In addition, the motions were denied without prejudice on substantive grounds. On March 30, 2004, Plaintiff filed the pending request for reconsideration. Under Federal Rule of Civil Procedure 72(a), a district judge shall consider a party's objections to a nondispositive ruling of a magistrate judge and "shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law."

1. The FCA Does Not Supplant the Federal Rules of Civil Procedure

Plaintiff contends that the magistrate judge "erroneously ruled in it's [sic] ruling based on not taking into account discovery standards set forth within Title 31 U.S.C. 3729 et seq. By Congressional Act, there is a complete section dedicated to discovery, that the Plaintiff believes, trumps parts of discovery rule of the Federal Rules of Civil Procedure, and the Federal Rules of Evidence. Local Rules are not mentioned." (3/29/04 Request at 2). As discussed above, the section of the FCA upon which Plaintiff relies only applies to civil investigative demands by the Attorney General, not to civil actions by qui tam plaintiffs. Thus, Plaintiffs motion for reconsideration on this ground is DENIED.

2. Plaintiffs Third-Party Subpoenas Are Unenforceable

Plaintiffs motions to compel production of documents from non-parties MetCalf and Kiewit were denied for failure to comply with Federal Rule 45. For the reasons discussed below, Plaintiffs motion for consideration of this portion of the March 17th order is DENIED. Plaintiff contends that although Metcalf

and Kiewit "were summarily dismissed for one thing or another by this Court, the dismissals should not have given them a pass from being future material witnesses or providing evidence, nor did it give a green light to purposely destroy evidence." (3/29/04 Request at 2). As an initial matter, Plaintiff has misstated the history of this litigation. Plaintiffs FCA claims against these entities were dismissed over three years ago without prejudice for failure to plead fraud with the requisite particularity. (Docket Entry 59). The Court extended Plaintiff 60 days to file an amended complaint against these parties. (Id.). Plaintiff did not appeal this order and although Plaintiff did file an amended complaint, he only named the City of Los Angeles as a Defendant. (Docket Entry 71). Thus, it was Plaintiff, not the Court, that decided not to pursue this litigation against Metcalf and Kiewit. Because Metcalf and Kiewit are not parties to this litigation, the magistrate judge properly ruled that Plaintiffs requests for production of documents from these entities must comply with Federal Rule 45. See FED. R. CIV. PROC. 34(c). Although Plaintiff did not attach the contested subpoenas, he appears to concede that his subpoenas did not comply with Rule 45. Plaintiffs argument is that section 3733 of the FCA excuses him from complying with Rule 45 and that he should not have to "go through the additional steps of subpoenas issued by other District Courts outside of the present venue to obtain discovery of acts the [sic] were allegedly committed in this venue." (3/29/04 Request at 2). As stated above, Plaintiff is incorrect. Neither Kiewit nor Metcalf is a party to this litigation and they have no obligation to voluntarily respond to improper discovery requests. Because this Court lacks the authority to compel compliance with a subpoena seeking the production of documents located outside of the Central District of California. see FED. R. CIV. PROC. 45(a), the magistrate ta judge's order was neither clearly erroneous nor contrary to law. Accordingly, Plaintiff's motion for reconsideration is **DENIED**.

3. Defendant Has Complied With Its Discovery Obligations

Plaintiff's motion to compel discovery from Defendant City of Los Angeles was denied because the magistrate judge found that Defendant had satisfied its obligations under the Federal Rules. As to this ruling, Plaintiff has submitted his "comments." (3/29/04 Request at 5). For example, he queries: "Why would the Plaintiff go through all of this work, expense, and take up Court time seeking a Motion to Compel, if there wasn't an underlying problem? In all appearances the Court just doesn't want to believe the Plaintiff, and has quoted the Defendant in it's [sic] ruling." (Id.).

Although such comments are not a proper ground for reconsideration, after reviewing Defendant's detailed response it appears that Plaintiff is attempting to compel the production of documents that do not exist. Plaintiff seeks documents related to the Hyperion Wastewater Treatment Plant, a significant public works project. dating back nearly twenty years. After reviewing Defendant's responses to Plaintiff's requests, as well as its explanation as to how it searched for responsive documents, the Court finds that the magistrate judge's ruling was not erroneous.

Plaintiff does not dispute that Defendant produced for Plaintiff's inspection seventeen binders of billing records. Plaintiff also does not dispute that he, in fact. inspected these documents and was freely allowed to copy from the binders. Plaintiff argues that he should be allowed direct access to the City Controller's records and that he should be provided with records from a certain "Environmental Trust Fund." However, Plaintiffs requests for production named the City of Los Angeles and did not specifically seek records from any particular source. [2] An example request is: "Any and all

DOCUMENTS which relate to. or reflect upon. Kiewit Pacific Company's request(s) for payment(s} of money to the CITY, for its services concerning the Hyperion Wastewater Treatment Plant, between January 1, 1987, and the present."
(Opp. Ex. 1 at 3). Although Defendant objected to this and similar requests as being vague and over broad, Defendant also stated that "to the extent the request for production seeks documents relevant to the subject matter of the present litigation and to the statute of limitations issue to which the court has limited discovery, Defendant City of Los Angeles will comply with the request for production and will permit the requested inspection. (Id.).

Plaintiff admits that through subsequent faxes and phone calls he attempted to direct Defendant where to look for documents. (Reply at 5). However, Defendant was not obliged to simply hand over the City Controller's records or records of any particular department. Rather, Defendant was obliged to review records in its possession, custody, and control to determine if any were responsive to Plaintiff's formal discovery requests or if, pursuant to Rule 26(a}(B), any of the documents could be used to support Plaintiff's claims. The Court agrees with the magistrate that Ms. Mowery was qualified to perform the required review and that Plaintiff has not produced any evidence to substantiate that Ms. Mowery filtered out responsive documents before producing the documents for Plaintiffs inspection.

> [2] The Court notes that at the time this discovery was propounded, Plaintiff was represented by counsel

Moreover, although Defendant responded that it would not produce privileged documents, to date, Defendant has not

chosen to withhold any documents due to privilege. Thus, Plaintiff's objection that Defendant improperly asserted privilege is inaccurate. (Reply at 3). In addition, Defendant's responses to Plaintiffs interrogatories and requests for production are proper under1he applicable Rules and Plaintiff fails to explain why he deems them to be "unacceptable and in contempt of Court." (Id. at 3). To the extent that Plaintiff is objecting to Defendant's decision to respond to his interrogatories by providing him with direct access to the requested billing records, under these circumstances Defendant is permitted to answer by producing its business records for Plaintiff's inspection. See FED. R. CIV. PROC. 33(d). To the extent that Plaintiff objects to Defendant's. decision to limit its review to Hyperion projects that were at least partially funded through state or federal grant monies, the Court agrees that this limitation on scope is appropriate. Plaintiffs remaining claim in this litigation is that Defendant submitted false claims for payment to the federal government. Records related to self.funded projects, i.e. projects that were not paid for out of grant funds or that did not involve the submission of claims for payment to the federal government, are simply not within the scope of this litigation nor within the scope of the limited discovery ordered by this Court.

For the reasons set forth above, Plaintiffs motion for reconsideration of the magistrate judge's March 17, 2004 order is **DENIED**.

E. PLAINTIFF'S MOTION TO REOPEN DISCOVERY

Plaintiff also has pending a motion to reopen discovery. Plaintiff's arguments for reopening discovery are based upon many of the same contentions set forth in his motion for reconsideration of the magistrate judge's March 17th order, namely that Defendant has been "stonewalling." (Mot. to

Reopen at 3). For support, Plaintiff asks the Court to "examine and assess" a February 8, 1988 letter referencing a contract between Defendant and Metcalf to develop training for the Hyperion plant. (Id. Ex. G-5). Plaintiff appears to take the position that because the bills related to this contract were not included in the discovery provided to Plaintiff, Defendant has not complied with its discovery obligations. Plaintiff contends that this letter is proof that "Metcalf & Eddy was a Training sub contractor as outlined in the Complaint and, in fact, was awarded for starters, as shown, $10,053,733." (Id. at 4).

However, the primary issue in this litigation is not whether Metcalf was a subcontractor on the Hyperion training project, but whether Metcalf was paid for its services out of federal funds. The letter clearly states that the project was to be initially funded through bonds and then the Wastewater Capital Improvement Program - not the federal government or federal government grant funds (or even the "Environmental Trust Fund" that Plaintiff often references). Defendant is only obligated to produce documents related to training contracts that were funded, at least in part, by the federal government Because Plaintiff has not shown that the contract referenced in the 1988 letter was even partially federally funded, the letter does not provide good cause for modifying the Court's scheduling order and reopening discovery. Accordingly, Plaintiffs motion is **DENIED**.

In addition, the Court hereby places Defendant's pending summary judgment motion back on calendar. Plaintiff may file a new opposition on or before Monday, September 27,2004. Defendant may file a reply on or before Monday, October 4, 2004. The .hearing in this matter will take place on Monday, October 18,2004 at 9:30 a.m.

IT IS SO ORDERED.

APPENDIX K

SEAL/ENTERED SEAL/FILED
Aug 14, 2001 CDCA-EASTERN DIVISION Aug 14, 2001

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case No. CV-00-08882 GAF (AIJx)–

UNITED STATES OF AMERICA,
ex rel. MIRO J. SATALICH Plaintiff
v.
THE CITY OF LOS ANGELES, et al. Defendants.

ORDER DENYING PLAINTIFF MIRO J. SATALICH'S MOTION TO DISQUALIFY

On August 10, 2001 Plaintiff Miro J. Satalich filed a Motion to disqualify Judge Gary A. Feess pursuant to 28 U.S.C. §§144 and 455.

The standard for recusal is whether a-reasonable person with knowledge of all the facts would conclude that the Judge's impartiality might reasonably be questioned." United States v. Studley, 783 F.2d 934, 939 (9th Cir. 1986) (citations omitted). The alleged prejudice must result from an extrajudicial source. Id. A judge's prior adverse ruling does not provide a basis for recusal. Id. SEAL/ENTER ON ICMS AUG 1 4 2000I

DOCKET #62

In support of a motion for recusal, Plaintiff must file an affidavit stating the facts and the reasons for the belief that bias or prejudice exists." 28 U.S.C. §144. Plaintiff has filed no such affidavit but instead presents conclusions about the alleged prejudice and bias of Judge Feess. In any event, the assertions in his Motion, even 1f submitted in the form of an affidavit, would be insufficient . Affidavit in support of recusal motions must state material facts with particularity. Conclusory assertions of bias are insufficient.

Plaintiff has not demonstrated that Judge Feess has shown bias or prejudice for or against any party. Accord1ngly, his Motion to disqualify Judge Feess is denied.

Dated: August 14, 2001 Signed/_____

VIRGINIA A. PHILLIPS
United States District Judge

APPENDIX L

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

U.S.A. **Seal/filed: Aug 10, 2001**

ex rel. Miro J. Satalich

PLAINTIFF(S),

CASE NUMBER
CV 00-8882 GAF (AIJx)

v.

The City of Los Angeles, et al

DEFENDANT(S).

REFERRAL OF MOTION TO DISQUALIFY
JUDGE/MAGISTRATE JUDGE

A Motion to Disqualify Judge Gary A. Feess was filed on 7/11/01. Pursuant to General Order 224 and General Order 194, this motion is referred to Judge Virginia A. Phillips for determination. Also in accordance with Sections 4.0 and 9.0 of General Order 224, all proceedings will be stayed until the determination of this motion.

CLERK, U. S. DISTRICT COURT

Dated 8/10/01 By Deputy Clerk

cc: Judge Assigned to Case
Judge Assigned to Hear Motion
Counsel of Record as follows:

Docket #61

CV-54 (08/97)
REFERRAL OF MOTION TO DISQUALIFY
JUDGE/MAGISTRATE JUDGE
ENTERED ON ICMS 8/10/01

APPENDIX M

Miro J. Satalich
4125 Lorraine Road
Rancho Palos Verdes California 90275
(310) 514-3013 Pro se

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
CASE No. CV-00-08882-GAF(AIJx)
THE UNITED STATES OF AMERICA, and;
THE STATE OF CALIFORNIA, and;
ex rel. MIRO J. SATALICH
Plaintiffs,

v.

THE CITY OF LOS ANGELES, and;
METCALF & EDDY SERVICES, and;
KIEWIT PACIFIC CO. and;
MARIE C. SCULLY, PRES. MCS GROUP
Defendants.

PLAINTIFF REQUEST
JUDGE GARY A. FEESS
DISQUALIFY HIMSELF
FROM THIS CASE

Time: 9:30 a.m.
Place: Royball Building
Courtroom: 740
The Honorable Gary Allen Feess

Docket No: #60

REQUEST FOR DISQUALIFICATION OF JUDGE - ORIGINAL CAUSE OF JUDGE DISQUALIFICATION AND CASE REASSIGNMENT

(1) The Plaintiff, Miro J. Satalich, requests that Judge Gary Allen Feess disqualify himself based on all of the following facts:

(a) The Plaintiff has acquired newly discovered evidence that Judge Harry Pregerson most recently met and spoke with one or more of the Defendants named in the lawsuit outside of the Courtroom. The evidence clearly shows a biased connection and loyalty towards the Defendant, City of Los Angeles.

(b) It is not clear whether you, Judge Feess, approached Judge Pregerson to have this case transferred, or whether Judge Pregerson made a direct request to you. Either way, it is clearly a prejudicial act that has caused unwarranted judicial discord towards me, by yourself and/or Judge Harry Pregerson.

(c) I cannot begin to emphasize enough, that since the inter-action between yourself and Judge Harry Pregerson in No. 00-08882GAF, I now have cause to believe this case compromised, tainted, and prejudiced towards the Defense.

(d) To make such a case transfer, Judge Pregerson had to review the Complaint, pleadings and unsealed evidence. Then, while the case was stayed, Judge Pregerson had a month long opportunity to sift through all of the evidence. He then claims to have declined to accept the case, however, later met with Defendant(s) named in the Complaint. Clearly bad judgment, to say nothing against judicial ethics on both your part and Judge Pregerson's.

(e) To ask for a clarification on a Court's Order is not an unreasonable request, it should be a normal way of doing legal business. However, maybe because I'm Pro se, not with you.

(f) It is no wonder the City of Los Angeles has comfort in knowing they can operate with impunity, that of not having to respond, or be accountable to the squandering of federal funds, and the pummeling of their employees, because, they are being protected by their own personal Federal Appellate Judge. That in itself, Judge Feess, is outrageous in any U.S. Court of Law, including this one.

(g) Pleadings filed into Case # CV 77-3047HP had nothing to do with your Court, then to be admonished for my trying to obtain due process in that case, is absolutely beyond justification, against FRCP, and frankly unfair. That part of this case should have been cleanly "over with." "Default" by any other name, is still "Default." Judge Pregerson did not follow Court procedures by not notifying me, so that "Default Judgment" could be appealed. He, instead, backdated documents. Because of that "Default," a "Summary Judgment" was filed into Case # 00-08882GAF. However, you were quick to reject "Summary Judgment," and for some not so strange and now very explainable protective reason, the City of Los Angeles was not required to respond to either filing.

(2) Therefore, I am requesting that you disqualify yourself and that this case be placed on hold (stay) until assigned to another Judge.

Submitted by:

Signed/_____ Date: July 10, 2001
Miro J. Satalich

APPENDIX N

Excerpts from United States District Court, Central District of California, General Order # 244

4.0 MOTION TO DISQUALIFY A JUDGE

If a motion is made to disqualify a judge in any civil case assigned to the judge pursuant to this General Order, the motion shall be referred to the Clerk for assignment to another judge in the same manner as cases are assigned pursuant to this General Order. The judge to whom the motion is assigned shall promptly determine whether the motion is timely filed and is legally sufficient to require a hearing on the disqualification.

If the judge determines that the motion is not timely filed or that the motion is legally insufficient, the motion will be denied and the case shall proceed as originally assigned. If the judge determines that the motion is timely and legally sufficient, the matter will be set down for hearing or other determination at the earliest time practicable. The judge against whom the motion has been filed shall not proceed with the case until the motion has been heard and determined.

If the judge denies the motion, that case shall proceed as originally assigned. If the motion is granted the case shall be returned to the Clerk for assignment in the same manner as an original case assignment as provided in this General Order.

4.1 MOTION TO DISQUALIFY - CREDIT FOR HEARING MOTION

The judge to whom a motion to disqualify has been assigned shall receive no case credit.

4.2 MULTIPLE MOTIONS TO DISQUALIFY

If more than one motion to disqualify the same judge is made in the same case or in related or consolidated cases before the same judge, the assignment and transfer of all such motions subsequent to the first motion shall be to the judge who determined the initial motion to disqualify.

APPENDIX O

STAMP/FILED
JAN 22 1981
CLERK USDC
CDCA

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALI FORNIA

In the-Matter of
LOCAL RULES GOVERNING
DUTIES OF MAGISTRATES

GENERAL ORDER NO. 194-E

IT IS HEREBY ORDERED that the Local Rules Governing Duties of Magistrates which are included as an attachment to General Order No. 194, entitled "In the Matter of Assignment of Duties to Magistrates" be amended by adding the following sections:

3.5 If a motion is made to disqualify a magistrate pursuant to 28 U.S.C. §§ 144 or 455 in any civil matter assigned to the magistrate, the motion shall be referred to the judge to whom the civil matter is assigned for determination. The magistrate shall not proceed with the matter until the motion has been heard and determined. I f the judge denies the motion, the case shall proceed as originally assigned. I f the motion is granted, the case shall be returned to the Clerk for assignment to a magistrate in the same manner as the original assignment.

4.3 MOTION TO DISQUALIFY MAGISTRATE If a motion is made to disqualify a magistrate pursuant to 28 U.S.C. §§ 144 or 455 in any criminal matter assigned to the magistrate, it shall be handled in the same manner as

provided for in civil matters in Rule 3.5 of these Rules.

Dated: January 21, 1982

SIGNED/

Andrew Hauk, Chief Judge	Laughlin E. Waters
William P. Gray	Mariana R. Pfaelzer
Manual P. Real	Terry J. Hatter
Robert J. Kelleher	A. Wallace Tashima
William Matthew Byrne Jr.	David B. Kenyon
Lawrence T. Lydick	Consuelo B. Marshall
Malcolm M. Lucas	Cynthia Holcomb Hall
Robert M. Takasuga	

(2) Supreme Court, U.S.
FILED

041420 FEB 28 2005

OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

United States of America, and;
State of California, and;
ex rel. Miro J. Satalich,
Petitioner(s),

v.

City of Los Angeles
Respondent.

On Petition For Writ Of Certiorari to the United States Court of Appeals for 9th Circuit

PETITION FOR WRIT OF CERTIORARI SUPPLEMENTAL APPENDIX

Miro J. Satalich, Pro se
P.O. Box 93314
Phoenix, Arizona 85070-93314
(480) 283-0355

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APPENDIX P

Court Logo
Cathy Catherson

Court Logo
(415) 556-9800

Deputy Clerk
Office of the Clerk
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
Post Office Box 193939
San Francisco, California 94119-3939

January 19, 2005

USDC, Los Angeles
Central District of California, Los Angeles
Office of the Clerk
312 North Spring Street
Los Angeles, CA 90012

No.	Title	Agency/D.C. No.
04-56758	Satalich v. City of L.A.	CV -00-08882-GAF

Dear Clerk.

The following document in the above listed cause is being sent to you under cover of this letter.

- *Certified copy of the Decree of the Court*

The record on appeal will follow under separate cover.

Please acknowledge receipt on the enclosed copy of this letter.

Very truly yours,
Cathy A. Catterson
Clerk of Court

Enclosure(s)
cc: All Counsel

Signed/_____
By: Ruben Talavera

Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 04-56758
D.C. No. CV-00-08882-GAF

UNITED STATES OF AMERICA; et al.
Plaintiffs,

and

JUDGMENT

MIRO J. SATALICH,
Plaintiff - Appellant,

v.

CITY OF LOS ANGELES,
Defendant - Appellee.

Appeal from the United States District Court for the Central District of California, Los Angeles.

On consideration whereof, it is now here ordered and adjudged by this Court, that the appeal in this cause be, and hereby is **DISMISSED for lack of jurisdiction**.

Filed and entered Tuesday, November 23, 2004

APPENDIX Q

Link 133, 150,
132, 163 PSend

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No. CV 00-08882-GAF (PLAx) Date: August 30. 2004
Title: United States ex rel. Satalich v. City of Los Angeles

The Honorable Gary Allen Feess. Judge

Marilynn Morris	**Seal/Docketed on CM**	None Present
Courtroom Deputy	Sep - 1 2004	Clerk Court Reporter
	BY/____ 005	

Attorneys present for plaintiff:
None Present

Attorneys present for defendant:
None Present

PROCEEDINGS: (In Chambers)

The Court recently set a briefing schedule in connection with Plaintiffs motion for, reconsideration of an order issued by the Magistrate Judge in March 2004. Plaintiff has filed a document objecting to Docket Number 157 (the briefing schedule) and 158 (denial of his belated motion to amend). This order responds to these objections, the initial motion for reconsideration of the magistrate's March order, and Plaintiffs pending motion to reopen discovery

A. PLAINTIFF'S OBJECTIONS TO DOCKET ENTRY 157

Plaintiff objects to the Court's briefing schedule on three principle grounds: (1) plaintiff does not believe that the Court did not receive his motion for reconsideration when it was filed; (2) defendant is in "default for not having responded to it; and

(3) he doesn't like the new schedule. Plaintiff's complaints lack merit. A brief description of the background and the applicable local rules disposes of all of them.

On March 17, 2004, Magistrate Judge Abrams denied Plaintiff's motion to compel certain discovery. (Docket Entry 130). On March 29, 2004, the Court Clerk filed a document styled:

To: The U.S. District Court, The Honorable Gary A. Feess, Judge In-Accordance-with-FRCP-Rule-7-4(a).and;
Federal Rules of Evidence, Judicial Notice Rule 201 (a)(b)(1)(2(d) and;
Title 31 U.S.C. § 3733 Civil Invest. Demands
PLAINTIFF'S REQUEST FOR REVIEW AND RECONSIDERATION OF ORDER DATED:
March 17.2004, FOR MOTION TO COMPEL TO:
City of Los Angeles, and; **Docket #165**
Kiewit Pacific, and;

Metcalf & Eddy Services.

MINUTES FORM 11
CIVIL - GEN Initials of Courtroom Deputy Clerk/___
-1-

(Docket Entry 132). Local Rule 7-4 requires that the first page of a motion contain the date and time of the motion hearing because the hearing date, in turn, triggers the automatic briefing schedule set forth in Local Rules 7-9 and 7-10. Because Plaintiffs filing was not properly noticed, the matter was not automatically placed on the Court's calendar. See Local Rule 6-1. Nor was the briefing schedule triggered. Thus, defendant cannot be in default since no schedule was ever set.

Even though Local Rule 7-4 provides that the Court may decline to consider a filing that is not properly noticed, had the Court received the document or even a courtesy copy of the document, it would have set a proper briefing schedule and hearing date. However, Plaintiff's single duplicate copy was forwarded to the magistrate judge and it did not physically reach this Court. The Court cannot consider what it never receives.

Finally, the Court's briefing schedule provided Plaintiff the standard seven days to file a reply to Defendant's opposition. See Local Rule 7-10. Accordingly, Plaintiff's objection to and his request that the Court reevaluate and

reconsider its order setting a briefing schedule in this matter is **DENIED**.

B. PLAINTIFF'S OBJECTIONS TO DOCKET ENTRY 158

Plaintiff also objects to and requests that the Court reevaluate and reconsider a second order issued on August 2, 2004 (Docket Entry 158) denying Plaintiff's belated motion to amend or supplement his complaint. Although Plaintiff should have filed this "request" as a separate motion with a timely hearing date, see Local Rule 6-1, the Court will ignore this defect and consider the motion.

Plaintiff objects to the Court's statement that his complaint contained a "myriad of allegations" as a "denigrating remark." The dictionary indicates that denigrate come from the Latin meaning to defame. A remark cannot be defamatory, however, if true. Considering that the 25-page complaint contains allegations of eavesdropping, entrapment, noncompliance with the amended consent decree, fraud, obstruction of justice, discrimination, harassment, exposure to electrical hazards, and witness tampering, the Court considers the use of the term "myriad" to be accurate.

Plaintiff also argues that the Court lied when it said that he has been given multiple opportunities to submit evidence in support of his contention that certain contracts were paid out of

federal funds. The history of Plaintiff's responses to Defendant's summary judgment motion belies Satalich's attack on the Court. Defendant filed its summary judgment motion on April 12, 2004. After receiving Plaintiff's opposition, which the Court found was insufficient and improperly focused, the Court provided Plaintiff detailed instructions on how to properly oppose the motion and what evidence would be required. (Docket Entry 137). The Court extended Plaintiff nearly a month to file a new opposition. However, instead of filing an opposition Plaintiff filed an improper appeal to the Ninth Circuit (Docket Entry 138). Further, Plaintiff continually tried to file amended or supplemental complaints containing unrelated allegations, even though the Court had instructed him that such complaints would not be accepted. (Docket Entry 135, 140). After the deadline for filing an opposition came and went, the Court construed Plaintiff's silence as a motion to stay proceedings, which it granted [1] (Docket Entry 142, 147). After the stay was lifted, the Court again extended

> [1] The Court notes that because the mere filing of an appeal does not automatically stay proceedings, Plaintiff's failure to either move for a stay or file an opposition constituted grounds for granting Defendant's motion for summary judgment. See Local Rule 7-12.

Plaintiff ample time to file an opposition. (Docket Entry 148). Although Plaintiff did eventually file an opposition, he has yet

to provide actual evidence that a false claim for payment was submitted to the federal government. Thus, the Court stands by its statement that it "has given Plaintiff multiple opportunities to submit evidence."

For the foregoing reasons, to the extent that the "objection" to Docket No. 158 can be construed as a motion, it is **DENIED**.

Finally, the Court also wishes to address Plaintiff's repeated objection that the Court's order limiting discovery to the statute of limitations issue does not encompass documents related to proof that payments for the allegedly defective training were made out of federal government grant monies. (8/20/04 Objection at 5; 7/22/04 Objection at 3). Plaintiff's objection reveals a fundamental misunderstanding of what the "statute of limitations" issue in this case represents. Plaintiff's previous attempt at an opposition focused, among other things, on his contention that the proper statute of limitations period for this case is ten years, rather than the six years argued by Defendant. Clearly, the number of years is a valid issue that must be determined, however, that is a legal issue. There is no need for discovery on this point.

The reason the Court reopened discovery was for the purpose of determining if Plaintiff had any qui tam claims that could possibly survive any applicable statute of limitations. As Plaintiff recognized in his own papers, the statute of

limitations period either begins to run on the date a false claim is submitted or on the date payment is actually made. (4/23/04 Opp. at 5). Defendant has submitted evidence to the Court that none of the contracting work that Plaintiff alleges was insufficient was paid or out of federal funds. Thus, unless Plaintiff can present admissible evidence sufficient to create a triable issue of fact on this point, Plaintiff cannot survive summary judgment regardless of whether the limitations period is six years or ten.

C. PLAINTIFF'S REQUEST FOR RECONSIDERATION OF DOCKET ENTRY 158

Plaintiff seeks reconsideration of the Court's denial of his motion to file an amended or supplemental complaint in this matter. Plaintiff's position is that the Court failed to follow certain guidelines set in place by Congress for discovery under the False Claims Act ("FCA"), 31 U.S.C. § 3729 et seq. Plaintiff appears to argue that certain provisions of the FCA supplant the Federal Rules of Civil Procedure. For support, Plaintiff cites to § 3733, which is titled "Civil Investigative Demands." By its explicit terms, this section only applies to civil investigative demands issued by the Attorney General prior to filing a civil action under § 3720 or other false claims law. See 31 U.S.C. § 3733(a)(1). The statute further states: "The Attorney General may not delegate the authority to issue civil investigative demands under this subsection." Id..

This statute has no application to a motion brought by a private qui tam plaintiff, in an existing civil action, to amend or supplement his complaint pursuant to Rule 15. The Court clearly stated its reasons for denying Plaintiff's motion and declines to further address this issue. Accordingly, Plaintiff's motion for reconsideration is **DENIED**.

D. PLAINTIFF'S MOTION FOR RECONSIDERATION OF THE MAGISTRATE JUDGE'S MARCH 17.2004 ORDER

On March 17, 2004, Magistrate Judge Abrams denied Plaintiff's three motions to compel discovery from non-party Kiewit Pacific Co., non-party Metcalf & Eddy, Inc., and Defendant City of Los Angeles. The motions were denied without prejudice on procedural grounds for failure to comply with Local Rule 37. In addition, the motions were denied without prejudice on substantive grounds.

On March 30, 2004, Plaintiff filed the pending request for reconsideration. Under Federal Rule of Civil Procedure 72(a), a district judge shall consider a party's objections to a nondispositive ruling of a magistrate judge and "shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law."

1. The FCA Does Not Supplant the Federal Rules of Civil Procedure

Plaintiff contends that the magistrate judge "erroneously ruled in it's [sic] ruling based on not taking into account discovery standards set forth within Title 31 U.S.C. 3729 et seq. By Congressional Act, there is a complete section dedicated to discovery, that the Plaintiff believes, trumps parts of discovery rule of the Federal Rules of Civil Procedure, and the Federal Rules of Evidence. Local Rules are not mentioned." (3/29/04 Request at 2). As discussed above, the section of the FCA upon which Plaintiff relies only applies to civil investigative demands by the Attorney General, not to civil actions by qui tam plaintiffs. Thus, Plaintiff's motion for reconsideration on this ground is **DENIED**.

2. Plaintiff's Third-Party Subpoenas Are Unenforceable

Plaintiff's motions to compel production of documents from non-parties MetCalf and Kiewit were denied for failure to comply with Federal Rule 45. For the reasons discussed below, Plaintiff's motion for consideration of this portion of the March 17th order is **DENIED**.

Plaintiff contends that although Metcalf and Kiewit "were summarily dismissed for one thing or another by this Court, the dismissals should not have given them a pass from being future material witnesses or providing evidence, nor did it give a green light to purposely destroy evidence." (3/29/04 Request at 2). As an initial matter, Plaintiff has misstated the history of

this litigation. Plaintiff's FCA claims against these entities were dismissed over three years ago **without prejudice** for failure to plead fraud with the requisite particularity. (Docket Entry 59). The Court extended Plaintiff 60 days to file an amended complaint against these parties. (Id.). Plaintiff did not appeal this order and although Plaintiff did file an amended complaint, he only named the City of Los Angeles as a Defendant. (Docket Entry 71). Thus, it was Plaintiff, not the Court, that decided not to pursue this litigation against Metcalf and Kiewit.

Because Metcalf and Kiewit are not parties to this litigation, the magistrate judge properly ruled that Plaintiff's requests for production of documents from these entities must comply with Federal Rule 45. See FED. R. CIV. PROC. 34(c). Although Plaintiff did not attach the contested subpoenas, he appears to concede that his subpoenas did not comply with Rule 45. Plaintiff's argument is that section 3733 of the FCA excuses him from complying with Rule 45 and that he should not have to "go through the additional steps of subpoenas issued by other District Courts outside of the present venue to obtain discovery of acts the [sic] were allegedly committed in this venue." (3/29/04 Request at 2). As stated above, Plaintiff is incorrect. Neither Kiewit nor Metcalf is a party to this litigation and they have no obligation to voluntarily respond to improper discovery requests. Because this Court lacks the authority to compel compliance with a subpoena seeking the production of documents located outside of the Central District of California. see FED. R. CIV. PROC. 45(a), the magistrate

judge's order was neither clearly erroneous nor contrary to law. Accordingly, Plaintiff's motion for reconsideration is **DENIED**.

3. Defendant Has Complied With Its Discovery Obligations

Plaintiff's motion to compel discovery from Defendant City of Los Angeles was denied because the magistrate judge found that Defendant had satisfied its obligations under the Federal Rules. As to this ruling, Plaintiff has submitted his "comments." (3/29/04 Request at 5). For example, he queries: "Why would the Plaintiff go through all of this work, expense, and take up Court time seeking a Motion to Compel, if there wasn't an underlying problem? In all appearances the Court just doesn't want to believe the Plaintiff, and has quoted the Defendant in it's [sic] ruling." (Id.).

Although such comments are not a proper ground for reconsideration, after reviewing Defendant's detailed response it appears that Plaintiff is attempting to compel the production of documents that do not exist. Plaintiff seeks documents related to the Hyperion Wastewater Treatment Plant, a significant public works project. dating back nearly twenty years. After reviewing Defendant's responses to Plaintiff's requests, as well as its explanation as to how it searched for responsive documents, the Court finds that the magistrate judge's ruling was not erroneous.

Plaintiff does not dispute that Defendant produced for Plaintiff's inspection seventeen binders of billing records. Plaintiff also does not dispute that he, in fact, inspected these documents and was freely allowed to copy from the binders. Plaintiff argues that he should be allowed direct access to the City Controller's records and that he should be provided with records from a certain "Environmental Trust Fund." However, Plaintiff's requests for production named the City of Los Angeles and did not specifically seek records from any particular source. [2] An example request is: "Any and all DOCUMENTS which relate to. or reflect upon. Kiewit Pacific Company's request(s) for payment(s) of money to the CITY, for its services concerning the Hyperion Wastewater Treatment Plant, between January 1, 1987, and the present."
(Opp. Ex. 1 at 3). Although Defendant objected to this and similar requests as being vague and overbroad, Defendant also stated that "to the extent the request for production seeks documents relevant to the subject matter of the present litigation and to the statute of limitations issue to which the court has limited discovery, Defendant City of Los Angeles will comply with the request for production and will permit the requested inspection. (Id.).

Plaintiff admits that through subsequent faxes and phone calls he attempted to direct Defendant where to look for documents. (Reply at 5). However, Defendant was not obliged to simply hand over the City Controller's records or records of any particular department. Rather, Defendant was obliged to

review records in its possession, custody, and control to determine if any were responsive to Plaintiff's formal discovery requests or **if**, pursuant to Rule 26(a}(B), any of the documents could be used to support Plaintiff's claims. The Court agrees with the magistrate that Ms. Mowery was qualified to perform the required review and that Plaintiff has not produced any evidence to substantiate that Ms. Mowery filtered out **responsive** documents before producing the documents for Plaintiff's inspection.

[2] The Court notes that at the time this discovery was propounded, Plaintiff was represented by counsel.

Moreover, although Defendant responded that it would not produce privileged documents, to date, Defendant has not chosen to withhold any documents due to privilege. Thus, Plaintiff's objection that Defendant improperly asserted privilege is inaccurate. (Reply at 3). In addition, Defendant's responses to Plaintiff's interrogatories and requests for production are proper under1he applicable Rules and Plaintiff fails to explain why he deems them to be "unacceptable and in contempt of Court." (Id. at 3). To the extent that Plaintiff is objecting to Defendant's decision to respond to his interrogatories by providing him with direct access to the requested billing records, under these circumstances Defendant is permitted to answer by producing its business records for Plaintiff's inspection. See FED. R. CIV. PROC. 33(d). To the extent that Plaintiff objects to Defendant's. decision to limit its

review to Hyperion projects that were at least partially funded through state or federal grant monies, the Court agrees that this limitation on scope is appropriate. Plaintiff's remaining claim in this litigation is that Defendant submitted false claims for payment to the federal government. Records related to self-funded projects, i.e. projects that were not paid for out of grant funds or that did not involve the submission of claims for payment to the federal government, are simply not within the scope of this litigation nor within the scope of the limited discovery ordered by this Court.

For the reasons set forth above, Plaintiff's motion for reconsideration of the magistrate judge's March 17, 2004 order is **DENIED**.

E. PLAINTIFF'S MOTION TO REOPEN DISCOVERY

Plaintiff also has pending a motion to reopen discovery. Plaintiff's arguments for reopening discovery are based upon many of the same contentions set forth in his motion for reconsideration of the magistrate judge's March 17th order, namely that Defendant has been "stonewalling." (Mot. to Reopen at 3). For support, Plaintiff asks the Court to "examine and assess" a February 8, 1988 letter referencing a contract between Defendant and Metcalf to develop training for the Hyperion plant. (Id. Ex. G-5). Plaintiff appears to take the position that because the bills related to this contract were not included in the discovery provided to Plaintiff, Defendant has

not complied with its discovery obligations. Plaintiff contends that this letter is proof that "Metcalf & Eddy was a Training sub contractor as outlined in the Complaint and, in fact, was awarded for starters, as shown, $10,053,733." (Id. at 4).

However, the primary issue in this litigation is not whether Metcalf was a subcontractor on the Hyperion training project, but whether Metcalf was paid for its services out of federal funds. The letter clearly states that the project was to be initially funded through bonds and then the Wastewater Capital Improvement Program - not the federal government or federal government grant funds (or even the "Environmental Trust Fund" that Plaintiff often references). Defendant is only obligated to produce documents related to training contracts that were funded, at least in part, by the federal government Because Plaintiff has not shown that the contract referenced in the 1988 letter was even partially federally funded, the letter does not provide good cause for modifying the Court's scheduling order and reopening discovery. Accordingly, Plaintiff's motion is **DENIED**.

In addition, the Court hereby places Defendant's pending summary judgment motion back on calendar. Plaintiff may file a new opposition on or before **Monday, September 27,2004.** Defendant may file a reply on or before **Monday, October 4, 2004.** The hearing in this matter will take place on **Monday, October 18,2004 at 9:30 a.m.**

IT IS SO ORDERED.

APPENDIX R

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES-GENERAL

Case No. CV 00-8882-GAF (PLAx) Date March 17, 2004

Title: Satalich v. City of Los Angeles

☐ U.S. DISTRICT JUDGE

PRESENT: THE HONORABLE - PAUL L. ABRAMS

☐ MAGISTRATE JUDGE

Christianna Howard	N/A	N/A
Deputy Clerk Court	Reporter / Recorder	Tape No.

ATTORNEYS PRESENT FOR PLAINTIFFS:
NONE

ATTORNEYS PRESENT FOR DEFENDANTS:
NONE

PROCEEDINGS: (IN CHAMBERS)

The Court is in receipt of plaintiff's Motions to Compel as to third party Kiewit Pacific Co., third party Metcalf & Eddy, Inc., and defendant City of Los Angeles, all submitted to the Court on March 12, 2004. The Motions are denied without prejudice for failure to comply with Local Rule 37, and the hearing

noticed for March 30, 2004, is ordered off calendar. The documents attached to each Motion, which plaintiff apparently faxed to the third parties and defendant on March 3, 2004, are inadequate to relieve plaintiff of his responsibility to seek to arrange a meet and confer conference, do not advise the opposing party that it shall confer with plaintiff within ten days of service upon him of the letter requesting such a conference, and do not identify the issues in dispute or provide any legal authority that plaintiff believes is dispositive of the dispute. Neither does it appear that plaintiff attempted to formulate a joint stipulation concerning the issues involved, and he failed to submit a declaration under Local Rule 37-2.4 that would relieve him of filing a joint stipulation.

The Motions are also denied without prejudice for the following additional reasons:

A. Third Party Subpoenas

Plaintiff seeks to compel the production of documents pursuant to two subpoenas directed to third parties. First, plaintiff has failed to provide any proof that the subpoenas were properly served on the third parties. Next, it appears that plaintiff has failed to abide by the procedures concerning subpoenas set forth at Federal Rule of Civil Procedure 45. Pursuant to Rules 45(a) (2) and 45(b)(2), a subpoena for production or inspection "shall issue from the court for the district in which the production or inspection is to be made," and "may be served at any place within the district of the court by which it is issued,

or at anyplace without the district that is within 100 miles of the place of . . . production, or inspection specified in the subpoena . . ."

The subpoenas in this case were apparently issued by the court in the Central District of California, but intend to compel production from third parties located in Massachusetts and Nebraska. As such, they do not appear to be proper. See. e.g. Mabe v. San Bernardino County. Department of Public Social Services. 237 .F.3d 1101, 1112 (9th Cir. 2001) (plaintiff "failed to comply with a local rule requiring a joint stipulation with [defendant] an~failed to comply with Fed.R.Civ.P. 45(a)(2) which requires that the subpoena issue from the federal district in which the school [in possession of the records] is located."). Finally, Rule 45

(c)(2)(B) allows enforcement of a subpoena following objections only "pursuant to an order of the court by which the subpoena was issued," and Rule 45(e) provides that failure to obey a subpoena may be deemed contempt "of the court from which the subpoena issued." See In re Sealed Case, 141 F.3d 337, 341 (D.C. Cir. 1998). Since the subpoenas here appear to seek documents from entities located in other states, they should have issued from district courts in those states, and this Court is without authority to order the parties to comply with their terms.

B. City of Los Angeles

It appears from plaintiff's Motion and defendant's responses to plaintiff's Request for Production of Documents that defendant

has met its obligations by: 1. permitting inspection of those documents relevant to the subject matter of the present litigation and to the statute of limitations issue to which the District Court has limited discovery (Fed.R.Civ.P. 34(b)), or 2. verifying that it made a diligent search and reasonable inquiry for the requested items but is unable to comply because the documents never existed or, if they did exist, have been lost or destroyed. Defendant has responded to plaintiff's special interrogatories by allowing plaintiff a reasonable opportunity to examine, audit or inspect those unprivileged documents that are relevant to the subject matter of the present litigation and to the statute of limitations issue to which the District Court has limited discovery, in compliance with Rule 33(d) of the Federal Rules of Civil Procedure.

Despite the Court's ruling in this matter, the Court notes that Rule 26(a)(B) of the Federal Rules of Civil Procedure requires, without awaiting a discovery request, a party to provide to the other party a copy of all documents in its possession, custody, or control that the disclosing party "may use to support its claims or defenses." To the extent it has not already done so, defendant shall produce all documents relevant to the statute of limitations question no later than March 30, 2004. To the extent plaintiff may seek to meet and confer with counsel for defendant and/or counsel for the third parties at issue herein, the Court orders that counsel fully comply with their obligations under Local Rule 37.

Plaintiff s desire to extend discovery to at least May 30, 2004, and for the Court to grant discovery broader than that allowed pursuant to the District Court's Order of October 6, 2003, should be addressed to the District Court.

cc: Hon. Gary A. Feess
Miro J. Satalich, Pro Se
Allen B. Felahy, Esq.
Leslie E. Brown, Esq.
Michael L. Claessens, Esq.
Robert Cramer, Esq.
Vivienne Alexis Swanigan-Crenshaw, Esq.
Thomas S. Salinger, Esq.
Treg A. Julander, Esq.
Patrick John Duffy, III, Esq.
Steven B. Copeland, Esq.
Steven Y. Han, Esq.

APPENDIX S

PSend

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Date: June 6, 2001

Case No. CV 00-08882-GAF (AIJx)

Title: The United States, ex rel. Satalich v. City of Los Angeles, et al.

THE HONORABLE GARY A. FEESS, JUDGE

Marilynn Morris	None Present
Courtroom Deputy Clerk	Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:
None Present

ATTORNEYS PRESENT FOR DEFENDANTS:
None Present

PROCEEDINGS: (In Chambers)

On April 26, 2001, the Court stayed the proceedings in this matter pending assessment of whether the case should be transferred to Judge Pregerson. Having completed this assessment, the Court has concluded that this case should not be transferred. Accordingly, the stay of proceedings is hereby lifted.

1. Pending Motions

The Court is in receipt of the following pending motions:

1. Defendant Kiewit-Pacific Company's Motion to Dismiss, and Plaintiff's Opposition thereto.

2. Defendant City of Los Angeles' Motion to Dismiss, and Plaintiff's Opposition thereto.

3. Defendant Metcalf & Eddy Services' Motion to Dismiss, and Plaintiff's Opposition thereto.

4. The Government's ex parte application for order granting leave to file an amicus curiae brief in opposition to Defendant City of Los Angeles' Motion to Dismiss.

As an initial matter, the Government's ex parte application for order granting leave to file an amicus brief is **DENIED**. The United States had the opportunity to participate in this litigation, but declined to do so. The Court sees no reason now to permit the government to participate in this matter, in light of its previous stance.

The Reply Briefs in the remaining motions to dismiss shall be filed no later than Monday, July 9, 2001. Accordingly, all pending motions to dismiss will be heard on Monday, Jury 16, 2001, at 9:30 AM, in Courtroom 740 of the Roybal Federal Building, 255 E. Temple St.

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CIVIL– GEN Initials of Courtroom Deputy Clerk___

Finally, the Court notes that Plaintiff has bombarded it with various pleadings since the inception of this lawsuit. This is unacceptable. Plaintiff shall not file any additional pleadings, except that contemplated in this Minute Order, until instructed to do so.

IT IS SO ORDERED

Submitted by:

Signed/_____, Date: April 12, 2005

Miro J. Satalich
P.O. Box 93314
Phoenix, Arizona 85070
(480) 283-0355